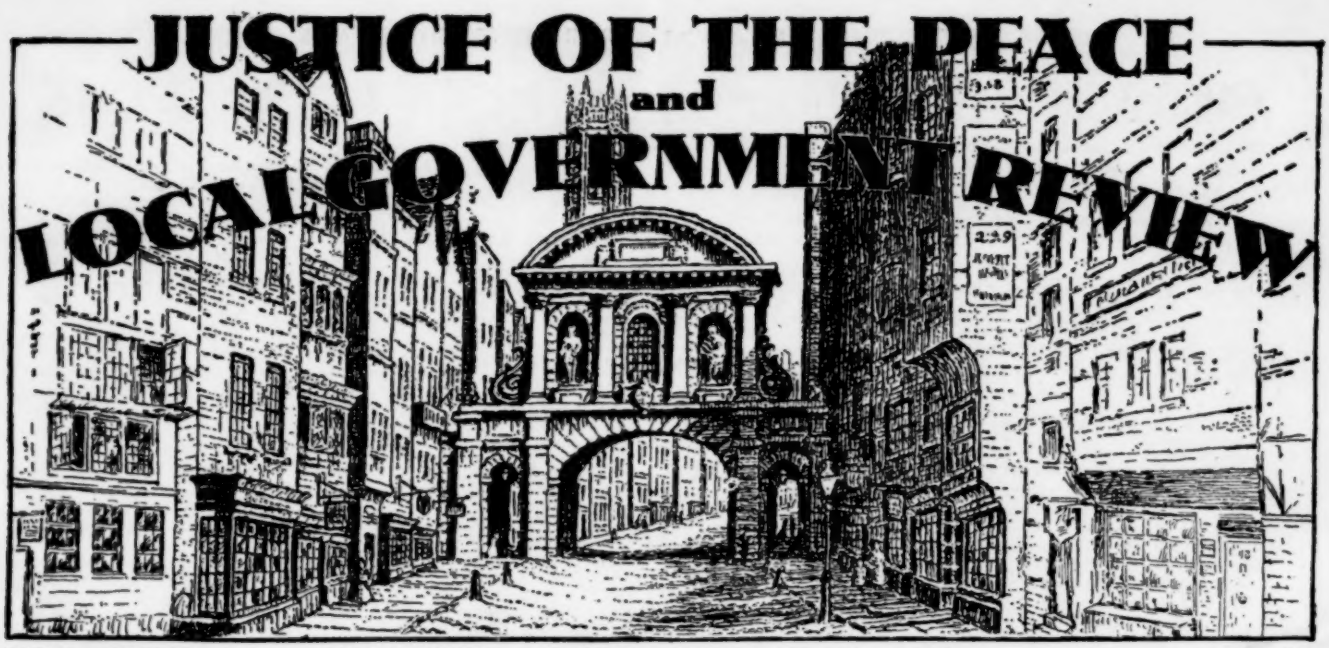

VOL. CXVIII LONDON : SATURDAY, MAY 15, 1954 No. 20

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

APPOINTMENTS

HOME OFFICE : CHILDREN'S DEPARTMENT AND PROBATION INSPECTORATES. The Civil Service Commissioners invite applications for pensionable posts as Inspectors Grade II in the Children's Department Inspectorate, in London and Provinces, and in the Probation Inspectorate in London.

The Children's Department Inspectors' duties include the inspection in England and Wales of arrangements for boarding out children with foster parents, of children's homes and nurseries and of approved schools and remand homes, and assistance in training workers in child care.

The Probation Inspectors' duties include inspection of probation work in England and Wales, advice on individual cases and assistance in the training of entrants to the Probation Service.

Age preferably at least twenty-eight on April 1, 1954. Candidates must have a wide experience of social conditions in this country and an understanding of behaviour problems. They should normally have had practical experience of family case work. Preference will be given to candidates who hold a University degree or a diploma or certificate in social or domestic science or institutional management or who have taken other recognized training in social or educational work.

Salary scales (London) (including Extra Duty Allowance where payable)—Men £872-£1,126 ; women £729-£985.

Particulars and application forms from Secretary, Civil Service Commission, 6, Burlington Gardens, London, W.1, quoting No. 4328/54. Application forms to be returned by June 3, 1954.

LINDSEY COUNTY COUNCIL require ASSISTANT SOLICITOR. Local government experience not necessary. Salary scale £735×£25—£860. Starting salary may be increased. Post superannuable and subject to medical examination. Apply, with particulars of education and experience, and two referees, before May 31 (no forms) to Clerk of County Council, P.O. Box 17, County Offices, Lincoln. Canvassing will disqualify.

LANCASHIRE COUNTY COUNCIL

ADMINISTRATIVE ASSISTANT required. Salary A.P.T. V (£620 to £670.) Committee experience desirable. Knowledge of Magistrates' Courts Committee work an advantage but not essential. Applications to Clerk of the County Council, P.O. Box 78, County Hall, Preston, by May 29.

APPOINTMENTS—(*contd.*)

METROPOLITAN BOROUGH OF FINSBURY. Appointment of Deputy Town Clerk. Applications are invited from solicitors having Local Government experience for the appointment of Deputy Town Clerk. The salary will be £1,200 per annum, rising by three annual increments of £50 to £1,350 per annum. (Scale D.) The conditions of service recommended by the Joint Negotiating Committee will apply generally to this appointment. Particulars of the appointment will be forwarded on request, and applications, in the form described in the particulars, must reach the undersigned by May 29, 1954.—John E. Fishwick, Town Clerk, Finsbury Town Hall, Rosebery Avenue E.C.1.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (T. E. Hoyland, Ex-Detective Sergeant). Member of The Association of British Detectives, World Secret Service Association and Associated American Detective Agencies. DIVORCE — OBSERVATIONS — ENQUIRIES—Civil and Criminal investigations anywhere. Over 1,000 Agents. Over 27 years C.I.D. and Private Detective Experience at your Service. Empire House, 10, Piccadilly, Bradford. Tel. 25129. (After office hours, 26823.) Established 1945.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel. : Boldon 7301. Available day and night.

COUNTY BOROUGH OF BARROW-IN-FURNESS

Appointment of Assistant Solicitor

APPLICATIONS are invited for the permanent appointment of Assistant Solicitor in the Town Clerk's Department, at a salary in accordance with A.P.T. Grade IX of the National Scale of Salaries (£840 rising to £960 per annum).

Form of application and conditions of appointment may be obtained from the undersigned, to whom completed applications must be returned in envelopes endorsed " Assistant Solicitor," to arrive not later than Wednesday, May 26, 1954.

LAWRENCE ALLEN,
Town Clerk.

Town Hall,
Barrow-in-Furness.

BOROUGH OF SOLIHULL

Town Clerk's Office

Appointment of Second Assistant Solicitor A.P.T. Grade Va-VII

APPLICATIONS are invited for the above appointment. Salary A.P.T. Va (£650-£710), rising to A.P.T. VII (£735-£810) after two years' legal experience from date of admission. Applications will be considered from those who passed the March Finals Examination of the Law Society, although they have not yet been admitted.

Solihull is a rapidly developing and progressive district and the post will offer an excellent opportunity for a young solicitor to obtain valuable experience. The district has recently been granted a Charter of Incorporation which will become effective on May 24, 1954.

In a suitable case the Council will endeavour to assist in the provision of housing accommodation.

Applications, with full particulars and the names of two referees, should reach the undersigned by first post on Tuesday, May 25, 1954.

W. MAURICE MELL,
Clerk of Solihull Urban District Council.

Council House,
Solihull.

COUNTY OF DURHAM

Petty Sessional Division of Bishop Auckland

Appointment of First Assistant Clerk to the Justices

APPLICATIONS are invited for the above appointment at a salary at present in accordance with A.P.T. V (£620—£670). Population 110,000.

The position is at present subject to the National Joint Council's Scheme of Conditions of Service, and to the passing of a medical examination.

Applicants should have a thorough knowledge of all the duties of a Justices' Clerk's Office, be quick and accurate in typing, and be competent to take Courts and advise the Justices.

If the successful applicant requires housing accommodation favourable consideration will be given by the local authority.

Applications, stating age and experience, together with the names of three referees, to reach the undersigned not later than June 1, 1954.

FRED McWILLIAMS,
Clerk to the Justices.

Magistrates' Clerk's Office,
" Cockton House,"
Cockton Hill Road,
Bishop Auckland.

LANCASHIRE COUNTY COUNCIL

JUNIOR ASSISTANT SOLICITOR required. Salary £650 to £710 rising to £735 to £810 after two years' legal experience from date of admission. Commencing salary according to qualifications and experience. N.J.C. conditions of service. Previous local government experience not essential. Appointment superannuable and subject to medical examination. Applications, stating age, qualifications, experience, etc., and naming three referees, to Clerk of the County Council, P.O. Box 78, County Hall, Preston, by May 24.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

Unsworn Evidence

The Divisional Court felt bound to set aside an affiliation order in circumstances which, as the Lord Chief Justice said, might seem hard on the mother of the child. The case was noted in *The Times* of April 30.

At the hearing before the justices, and again at quarter sessions, unsworn evidence of a child was received and treated as corroboration of the mother's evidence. The child was said to be twelve years old, but not to have understood the nature of an oath.

The power to receive unsworn evidence of a child of tender years is contained in s. 38 of the Children and Young Persons Act, 1933, and is confined to criminal cases, which do not include proceedings in bastardy. The Lord Chief Justice pointed out that there is no such power in civil cases. The appeal of the defendant by Special Case accordingly succeeded.

However, there was a possible way of dealing with the child's ignorance of the nature of an oath, which was indicated by Lord Goddard, namely, to adjourn the hearing and let the child be instructed. Assuming her to be of average intelligence, there is no reason why it should prove difficult to explain the matter to her so that she might be qualified to take the oath and give evidence in the ordinary way.

Laying an Information

A metropolitan stipendiary magistrate has expressed himself somewhat strongly against the practice by which an officer of a public department lays information in support of an application for a summons without having any first-hand knowledge about the facts, being in possession of only hearsay evidence. The learned magistrate admitted that such a practice was universal and that he could not find any definite authority against it, and in the end he granted the summons applied for.

We find nothing in the Magistrates' Courts Act and Rules, or in the provisions which they replaced, to show that the practice of granting summonses on mere hearsay is irregular. Application for process may be made by the prosecutor or complainant in person, by counsel or solicitor, or by his authorized agent, and it is not laid down that the informant must be a person who can give first-hand evidence in proof of the charge. As was mentioned, it is quite common for a superior officer of police to apply for a number of summonses on behalf of other officers who will give the necessary evidence at the hearing, and this saves valuable police time and some expense.

If information were laid, irresponsibly, by someone who had no evidence and had no proper ground for his application, the court could easily deal with the matter by granting costs against him, and in an extreme case there might even be an action for malicious prosecution. This situation, however, rarely arises, and the danger of it is almost negligible. Naturally, a magistrate has every right to inquire what evidence will be forthcoming, and if he is in doubt about the advisability of issuing a summons he can ask for further information. Applications by responsible police officers or officials of government departments are not likely to be made without due consideration of the weight of the evidence, or by officials without proper authority, and it seems rather unnecessary to insist on seeing someone who can support the information by first-hand evidence.

If the issue of a warrant is in question, the position is altogether different. This is a drastic step, and a much more serious interference with the liberty of the subject than is the issue of a summons. The law requires a written and sworn information, and prudent magistrates usually insist on being furnished with the sworn statements of witnesses who can give sufficient admissible evidence to make out a case against the defendant. That is a good practice, which it is safe to follow. We do not consider it necessary when only a summons is asked for and there is no reason to doubt the good faith or authority of the informant, or to think there is no sufficient ground for the application.

Curious Incident

Mr. Aneurin Bevan is at the moment the most controversial figure of the day. It is to the credit of the press, which he has for some years attacked, that no overt attempt has been made (so far as we have seen) to use politically the episode of his conviction for two motoring offences. Incidentally the case will be talked over in political circles, and may do Mr. Bevan harm, though the chairman of the magistrates made it plain that they regarded the dangerous driving as due to a momentary lapse. What we have called a "curious incident" about the case arose out of the second charge, that of failing to stop after a collision. This was not denied by the defendant, but the latter advanced by way of excuse that there was "a special reason for avoiding publicity, which he could not make public." (We are quoting from *The Times*.) That reason, whatever it was, the defendant set out in a letter to his own solicitor, who handed the letter to the bench. According to another newspaper (though not *The Times*) the chairman asked : "Do you wish us to read this ?" to which Mr. Bevan "eagerly" replied : "Yes, please." After conviction on this charge the chairman said : "We have your reason, and for that reason we

make the fine in that case one of £5." Now it seems to us that here there is something bound to lead to talk, if nothing worse. One can hardly imagine a prosecutor stating in a letter to his own solicitor or counsel a reason which, in his opinion, made an offence a bad one, and then the handing of that letter to the bench. If this ever did happen, it would be recognized at once as being prejudicial and improper, inasmuch as a defendant is entitled to hear whatever is brought up against him. This being so, by what sort of logic can it be right to let the defence put forward privately a mitigating circumstance, which is not capable of being given in evidence in open court? This question was being actively canvassed next morning in the Temple, and probably elsewhere. True, it is not as a rule any part of the duty of prosecuting counsel to press for heavier penalties than a court thinks necessary, so that there is a practical difference, if not a logical difference, between what was done here and the hypothetical case of the production by the prosecution of information not disclosed publicly or subjected to cross-examination. But, even so, the public at large have an interest in enforcement of the law, and particularly in such a matter as failure by a motorist to stop after an accident, and an interest also in seeing that the offence is visited with a proper punishment. No reader of the newspapers who is familiar with the standards of conduct displayed in English courts will suppose that the bench were improperly influenced by what they found in the letter handed in by the defending solicitor, but Mr. Bevan's position is bound to lead to publication of the story in the newspapers of all the world, and to discussion in every taproom in this country. It will not be surprising if foreigners, and large sections of our fellow countrymen, suppose that a front rank politician can "get away with" a nominal penalty, by some secret reason, which would not avail an ordinary motorist.

Case Stated—Justices Supporting Their Decision

At 118 J.P.N. 256 P.P. No. 8, we stated that we were not aware of any authority for paying from public funds, the costs incurred by justices in being represented at the hearing of a Case Stated by them. Our attention has been called by a correspondent, to whom we are grateful, to s. 25 (2) (*c*) of the Justices of the Peace Act, 1949, and he suggests that such costs might be met by virtue of that subparagraph which enacts that the responsible authority shall pay "so far as they are not otherwise provided for, all other costs incurred with the general or special authority of the magistrates' courts committee by the county or borough justices act of sessions . . ." We do not think that the later part of para. (*c*) can be relevant because it relates to costs incurred by justices in defending any legal proceedings taken *against* them, and proceedings by Case Stated are not proceedings taken against the justices.

But it does seem to us, on consideration of the part of para. (*c*) which we have quoted, that it is reasonable to argue that if the authority of the magistrates' courts committee is obtained the justices might have the costs of their being represented paid by virtue of para (*c*). As our correspondent points out, there are occasions from time to time when the party who should be the respondent to the appeal is either not interested or not willing to support the magistrates' decision, and yet it may properly be felt that the point involved is of importance and that the arguments which influenced the justices in coming to their decision should be put before the High Court by counsel. Against this it may perhaps be said that the justices have every opportunity, in stating the case, to put their arguments clearly and fully before the Court, and that if they do this satisfactorily, there is no need for them to incur the expense of being represented at the hearing. Theoretically this may be true, but in practice it may well happen that counsel for the appellant seeks to make a point which counsel for the respondent would be able to show is a false point, whereas if there is no respondent present the point may be accepted.

On the whole, our view is that in the absence of authority to the contrary s. 25 (2) (*c*) may provide a means of authorizing payment of justices' costs on the rare occasions when it is proper for them to be represented on the hearing of a Case Stated. The Magistrates' Courts Committee can ensure that authority to incur such costs is not given unless there is good reason, in the particular case, for doing so.

Committals with a view to Borstal

As in last year's report for Croydon, there is a reference to what became of the young men and women committed to the London Sessions with a view to the passing of a borstal sentence, and again the policy of the court appears to have been justified. "After careful inquiry it was found possible in 1951 to place fifty young men and five young women of the 240 committed for sentence during that year on probation. At the end of the two years probation period it was found the thirty-five had completed their probation satisfactorily, nineteen had failed and one was continuing to make satisfactory progress."

As in most instances the defendant has been in trouble before, perhaps several times, the material must be difficult to handle, and it is gratifying to find that the court and the probation officers have been able to deal with it so successfully without resort to institutional treatment, and, incidentally, with a considerable saving of public money.

Magistrates and Motorists

Writing in *The Spectator* of April 23, Sir Carleton Allen, who is by no means blind to the fact that magistrates have their failings, puts in a well-deserved word of defence for those who, as he says, from the days of Shakespeare onwards, have been the most popular scapegoats. The occasion of his article, which is entitled *The Wicked Magistrate*, is to examine the charge that the loss of life and limb on the roads is in part due to the failure of magistrates to deal adequately with road traffic offenders.

To the suggestion that magistrates are lenient to motorists because they themselves are motorists, Sir Carleton replies that they are average motorists, and the average motorist has the strongest objection to the road thugs who are the minority. Far from sympathizing with such, the magistrate has to be at pains to restrain his indignation and to be judicial in his attitude. He must not judge by emotion. Sir Carleton points out that in motoring cases a slight degree of blameworthiness may produce wholly disproportionate consequences, whereas, conversely, gross lawlessness may often by sheer luck, escape doing damage. The task of distinguishing between causes and consequences, in cases ranging from manslaughter to careless driving, is one of the greatest difficulty. Penalties, he admits, are sometimes inadequate, and powers of disqualification are not sufficiently exercised. This criticism applies particularly, he considers, to cases of the use of vehicles that are not road worthy, and to dangerous driving. It is well-known that judges in the higher courts take widely differing views of certain kinds of offence, and so it cannot be expected that uniformity of treatment will be found in the hundreds of magistrates' courts in which thousands of magistrates administer the law. No authority in the land has power to dictate the policy or discretion of the courts.

Turning to quarter sessions, Sir Carleton Allen indicates his doubts about the soundness of many an acquittal of a motorist, and as to appeals to quarter sessions he says, and many a magistrate will agree with him: "It is the discouraging experience of

many petty sessional courts that an offender who has, for good cause, received an exemplary sentence stands at least a fifty-fifty chance of having his punishment reduced on appeal."

Although a certain amount of perjury is committed in road traffic cases, it is probably true, as this article suggests, that imperfect observation and recollection account largely for the frequent conflicts of evidence that may lead to bewilderment, and to acquittals that are sometimes surprising. This applies to juries even more than to magistrates' courts. Moreover, the strict rules of evidence enable many a blameworthy person to escape conviction. A man who is somewhat affected by drink, but who is thought not to be sufficiently under its influence to justify a charge under s. 15 of the Road Traffic Act, 1930, and who has driven dangerously is charged with the latter offence. Evidence about his condition as to sobriety or insobriety would probably be excluded as irrelevant to the charge, although to most people it would seem all important.

It is to be hoped that the difficulties of the magistrates will be better understood by the many who read and discuss this impartial article, and that criticism, which is sometimes justified, will at all events be informed and reasonable.

Moaning at the Bar

The annual general meeting of the Bar saw the sad spectacle of a profession struggling in adversity.

The Bar has always been regarded as a hard livelihood in the past and the lot of the " briefless barrister " has engaged the attention of many authors and playwrights. Curiously enough, however, in recent years the struggles of the briefless ones often described in novels have been overshadowed by the tendency in the popular press to dwell upon and exaggerate the fabulous incomes of the "star" or fashionable Q.C. Perhaps the public at large, being optimistic by nature, prefer to think of the spectacular successes of the few rather than the initial struggles of the many. Be that as it may public opinion received its first big shock when after the publication of the Evershed Report in July last year (which recommended certain reductions in counsels fees) a special correspondent of *The Times* conducted a survey into the incomes of a representative cross-section of the Bar which were confidentially disclosed to him. In common with most of the professional sections of the community (but probably worse than most) the Bar had not been doing too well, and in some cases downright badly. Sir Hartley Shawcross, Q.C., (who is Chairman of the Bar Council) remarked that most of the press estimates of leading incomes at the Bar reminded him of those sums where the examinee was asked to think of a number, double it, add the date and so on! There is no doubt that the vast majority of the popular newspaper estimates represent guesses and wild guesses at that.

The Attorney-General (Sir Lionel Heald, Q.C.) remarked bluntly that the fact was that the Junior Bar to-day were not getting the rate for the job and that the changes about counsels fees contained in the Evershed Report had caused much concern to the Bar because they would bear hardest on those least able to afford it—namely juniors in their early years of practice.

Obviously if the Junior Bar are not fairly and reasonably remunerated for the work they do the standards of the profession and ultimately the standards of British justice will suffer. Young men of ability are not going to enter a profession in which the lean years have become leaner as the result of the rising cost of living ; and the high incidence of taxation has substantially diminished the income of the fat years if they are attained at all after the long wait. The Bar (like the stage) knows a wider range of extremes than most other professions and occupations, but it is extremely unwise to think that high quality at the top will be maintained if the right entrants are deterred from joining the ranks of the profession. The agenda paper of the annual general meeting of the Bar contained items almost exclusively directed at the hardship which junior members of the profession are suffering at the present time ; the delays in the payment of fees, the general inadequacy of common law fees and fees for lectures, all are questions of intense concern to the younger barrister who has to survive the opening years of his practice if he is ultimately to succeed.

A fairly remunerated legal profession is essential if the Evershed Report (which conceded that the Junior Bar were underpaid for important parts of their work) is to be carried out effectively.

Private Bill Procedure

A matter of interest to local authorities in connexion with the promotion of private Bills was discussed in the House of Lords on April 14 on a resolution from the House of Commons that it was expedient that the Kent Water Bill should be committed to a joint committee of both Houses. On the motion of the chairman of Committees (the Earl of Drogheda) it was decided not to concur with the Commons in this resolution. As he explained, the question of sending private Bills to a joint committee is both important to those concerned and somewhat complicated. The opponents of a private Bill have the undoubted right to present petitions against such a Bill to both Houses of Parliament and normally they expect to be heard separately in each House. Moreover, it seems to be generally agreed that committal to a joint committee favours the promoters of a private Bill. This procedure is therefore infrequent and there have only been about twelve instances of the procedure being followed in the last fifty years. These were either on government Bills affecting private interests or on inter-related Bills in which it was particularly desirable to secure uniformity. There are said to be twenty-five petitioners against the Kent Bill and the majority, if not all of them, appear to object to the Bill being dealt with by a joint committee. The promoters of the Bill desire this course, they say, because it would save expense. The chairman of Committees said, however, that this did not necessarily follow because in many cases objections are not proceeded with in the second House and in many other cases the promoters, during the interval between the two hearings, offer compromises which are accepted. In his view the promoters had not discharged the onus on them to justify a departure from the normal procedure.

Lord Campion, in a maiden speech, suggested that as the Bill raises matters of public policy it would be preferable that it should be considered by a joint committee. Earl Jowett was also inclined to this view as the Bill raises a matter of public policy as to whether it is proper that the various water-supplies in Kent should be taken into one central body rather than there should be a number of competing authorities. He thought, further, that the joint committee procedure tended to lessen the expense. Lord Milner, speaking from his experience in the House of Commons, argued the desirability of a private Bill being considered by two committees as frequently it is not until a matter arose in the first House that the full arguments for a particular course or proposal are disclosed and it is often an advantage for the petitioner or objectors to provide arguments or evidence to deal with that particular question which is possible if there is an opportunity of going before another tribunal. The petitioners can then have no complaints and have every opportunity to prepare their evidence. The Lord President of the Council (the Marquis of Salisbury) agreed that a case for a joint committee had not been made and that two committees give a fairer chance to the petitioners than one committee.

"TWO BITES AT THE CHERRY"

A recent case which received considerable publicity in the daily press was that in which a lady was summoned for dangerous driving and, having claimed trial by jury, was then summoned on the same facts for driving without due care and attention. According to reports in the press, this was characterized by the learned recorder of quarter sessions before whom the case of dangerous driving was tried as having two bites at the cherry. We think the matter is one of some importance, and we should like to examine it in detail.

It is recognized as being of prime importance in the administration of justice that not only should justice be done but also that it should be manifest that it is being done. To put it in another way, a litigant, or a member of the public, should have every reason to think that the law gives people a fair deal.

By virtue of s. 25 of the Magistrates' Courts Act, 1952, offences under s. 11 of the Road Traffic Act, 1930 (" dangerous driving ") are not triable summarily if the defendant exercises his right to claim to be tried by a jury. Such offences can also be treated as indictable offences by virtue of the procedure laid down by s. 18 of the 1952 Act, and under that procedure a defendant might not have the opportunity of being tried summarily for a s. 11 offence even if he wished to be so tried. Offences under s. 12 of the 1930 Act (" careless driving ") are purely summary offences, the maximum punishment for which is that prescribed by s. 113 (2) of the 1930 Act.

It is because of this difference in the nature of the offences under ss. 11 and 12 respectively that the difficulty we are considering arises. The elements of the two classes of offence are different and although it is sometimes argued, so we believe, that a person can be guilty of a s. 11 offence without being guilty of a s. 12 offence we find this difficult to accept. It may well be that the deliberate dangerous driver who skilfully executes a dangerous move may be driving with all due care and attention in one sense of those words but we find it hard to believe that he is not driving without reasonable consideration for other persons using the road. On the other hand most people, we think, will accept that it is possible to commit a s. 12 offence without committing one under s. 11. Indeed s. 35 of the Road Traffic Act, 1934, presupposes that this is so because it enacts that " where a person is charged before *a court of summary jurisdiction* with an offence under s. 11 of the principal Act . . . and the court is of opinion that the offence is not proved, then at any time during the hearing or immediately thereafter the court may, without prejudice to any other powers possessed by the court, direct or allow a charge for an offence under s. 12 of the principal Act . . . to be preferred forthwith against the defendant . . . " The rest of the section deals with the procedure to be followed when a s. 12 charge is so preferred.

In our view, if a person is convicted, either by his plea or after trial, of a s. 12 offence he cannot thereafter be proceeded against for a s. 11 offence. This matter is discussed in articles at 112 J.P.N. 226 and 305, and we do not propose to deal further with it here. Equally, if a defendant is acquitted on the s. 12 charge, we think he cannot be proceeded against after that for a s. 11 charge. But where the order of the trials is reversed the position is different. If a conviction results on the s. 11 charge no one is likely to suggest that there should be a conviction also on a s. 12 charge, but if the former is dismissed there is clearly no bar to the latter being subsequently tried.

This being the position some police forces adopt the practice, when they consider that there is evidence on which a court might find a s. 11 charge proved, of summoning under both s. 11 and s. 12. Others summon in the first instance under s. 11 only, relying on the exercise by a summary court of its powers under s. 35 of the 1934 Act. In the latter instance, however, if the defendant claims, as did the lady in the case we refer to at the beginning of this article, to be tried by a jury, the prosecution must either be content to rely solely on the dangerous driving charge or must, on the claim being made, apply for a summons under s. 12. If this practice is considered from the purely legal point of view we think it cannot be objected to, but to many people it gives the impression that the police are saying, in effect " Oh, so you think you will escape by being tried by a jury. Well, we will see that you do not, because now we shall summon you also for driving without due care and attention." It is true that had the two summonses both been issued in the first instance the prosecution would have asked, on the claim for trial by jury being made, for the hearing of the s. 12 case to be adjourned to a date after the trial of the graver charge and would in all probability have sought to have the lesser charge heard later if the defendant had been acquitted on the graver. But in this case the defendant does at least know from the beginning that the alternative charge is being made.

Whichever way the matter is dealt with by the police in the first instance we think that there are objections to a procedure which requires a defendant to fight practically the same issues before two different courts or else to forfeit his right to be tried by a jury on the graver charge. We wonder, therefore, whether there is any way of avoiding this. Obviously it would be wrong to seek to solve the problem by depriving a defendant of the right to claim trial by jury on the graver charge. In any event he may be committed for trial without having so claimed. Also, as the law now stands, he cannot be convicted by a jury of the lesser offence because it is one punishable only on summary conviction. Is it possible to effect a change here? What we have in mind is a suggestion that special provision might be made to deal with what is by no means an uncommon set of circumstances in order to avoid the hardship and expense to defendants of having to appear before the two tribunals. Would it be possible to have a short section to enact that where a person is tried on indictment for an offence under s. 11 the jury shall be directed to consider whether they find him guilty of such an offence, or of one under s. 12 (with a suitable direction as to the different issues involved) or if no offence at all with a proviso " and for the purposes of this section an offence under s. 12 of the Road Traffic Act shall be deemed to be an indictable offence punishable on conviction in the manner provided by s. 113 (2) of that Act "?

If such a provision became law the whole matter would be dealt with by quarter sessions. The evidence and the cross-examination of witnesses would be directed to both issues, prosecution and defence would deal with the matter on that basis and we see no reason why the result should not be a perfectly fair one from everybody's point of view. We should welcome comments from our readers who may see objections to the proposal which we have not noticed, or may be able to adduce further arguments in support of it. It seems to us to be adapting to a less grave set of circumstances a procedure already followed when an accused person is tried for murder and the jury have to decide whether to convict of that offence, or of manslaughter, or to find the accused not guilty of either offence. The device of deeming something to be that which it is not is not a new one, and should not, in our view, be objected to if it is applied for adequate and proper reasons to a new set of circumstances.

AGE WITHOUT DISCRETION

By W. CLIFFORD

There would be no need for specific legislation if there were a consensus of opinion as to acceptable modes of behaviour. Laws are superfluous where public opinion is unanimous. This is well-illustrated by the conventions of our constitution which are wholly implicit. We have no need of a law to outline the function of the opposition, the duties of the Prime Minister, the limits of constitutional Monarchy. We have never found it necessary to define the powers of the cabinet.

Laws need to become explicit only when it is obvious that some do not share the opinions of the majority. This is the principle underlying the theory of common law. The explicit formulation of the axioms of the common law was only required when their application had been questioned by a particular act or circumstances. When doubt or a conflict of opinion occurs the rule needs to be clearly expressed. In a simple society there is rarely any need to commit the customary rules to paper, but as the community grows in size and complexity, the body of written law expands in sympathy. More and more interests oppose one another and more and more rules have to be explicitly and concisely stated. If, however, opinion remained settled and unanimous concerning the interpretation of human conduct, legal instruments and treatises would be largely out of place.

The same principle may be applied to the actual implementation of law. The most effective law is the one that is but rarely invoked. A law abiding community would make the application of the law unnecessary. An over ambitious executive can often bring a law into disrepute, as we have seen with the mass of subordinate legislation.

The application of all law requires a degree of flexibility—a measure of discretion. If, for instance, we were to follow the very letter of our laws, the courts would never be able to cope with the mass of litigation. An assault by definition takes place so regularly that it is a good thing that recourse is had so infrequently to the support of the law. If the police were to apply rigidly the mass of legislation regarding human behaviour, they would need an enormous increase in manpower and the nation's time would be absorbed in litigation.

It is important, therefore, that we have regard to the spirit of the law, and make all allowances for the exercise of the essential ingredient of discretion. Discretion makes the legal system workable—it lubricates the machinery of the law making it at once more effective and less tyrannous. An immoderate recourse to law has never been regarded with favour in this country, and the individual who overworks the executive in his own interests earns the disrespect of his fellows.

If there should be evidence therefore that discretion is being used less and less in the application of the law it is a matter for some concern for us all. It would imply the gradual petrification of legal process and a waning of the power of the law to serve the real interests of the community.

It is a necessary concomitant of a developing industrial society that there should be an increase in the work of the courts, but we might seriously ask whether the increase need be as great as it has been over the past few years. The extension of legal aid facilities necessarily, leads to a growth in litigation, but learned judges have recently complained of the abuse of these facilities in certain cases. One metropolitan magistrate recently deplored the extent to which neighbours' quarrels were taking up the time of the court when they could often be settled out of court. Unnecessary appeals have incurred the criticism of the law lords from time to time. It is such ill-considered recourse to courts which indicates the lack of discretion in invoking legal remedies. Perhaps it arises from the attitude of modern society, which appears more conscious of rights than it is of duties. Most certainly, an over emphasis of rights, a growing consciousness of one's due to the exclusion of one's obligations implies a complete lack of the necessary element of discretion without which the law is sterile.

This was the aspect of the modern application of law which concerned Mr. A. Platt, the clerk to the Ashton-under-Lyne justices when he wrote in his annual report (quoted at 116 J.P.N. 579) : " In those days (*i.e.*, twenty years ago) many petty offences would have been dealt with on the spot by a cuff over the ear. There would have been no appearance in court and no record of conviction. Maybe the reason we get so many persistent offenders is that they are brought to court in the first instance on some comparatatively trivial matter, and when nothing unpleasant happens to them, they lose the inherent fear of the court which thereafter ceases to have any terrors for them. It is certain that the number of more serious offences of breaking and entering by children are increasing and wherever lies the blame, it is an alarming state of affairs."

Can it be then that the police are exercising less discretion in bringing prosecutions of a trivial nature than they did some years ago ? If this is the case the police can hardly be blamed. Many parents who feel that they would have preferred the police to deal with the matter summarily rather than by a criminal charge, would be the first, had their children been physically chastised, to have complained of the children being assaulted. If constables feel it wiser to handle the matter officially for their own protection, it is the fault of a society the members of which are only too ready to insist upon the full recognition of their legal rights.

There is no suggestion here, let me hasten to add, that substantial offences should not be brought before the courts. There will, it seems, always be enough of these to keep the courts busy, but to apply the law according to its letter and not according to its spirit hardly conduces to its respect. When railway workers began to " work to rule " some years ago there was an illustration for everyone of the extent to which the efficiency of the railways depended upon the rules being applied not according to the letters, but according to the discretion and commonsense of the railway workers. This is analogous to the position in law. Laws are valuable until some intense persons suffering from the madness for detail which can be as dangerous as any other madness begins to apply them so literally that practically every ordinary person is likely to find himself in court for one infringement or another. We often have outcries from motorists when the police have been assiduously applying the traffic laws, and we can imagine what is likely to happen if every law and regulation were applied rigidly.

In theory, there is no reason why everyone, all the time and in every circumstance, should not invoke litigation to protect their rights, take action against trespassers, claim compensation for negligence, and have every person brought to court who offends against legislation at all. In theory there is no reason why they should not. In practice it would create chaos. So much do we depend upon discretion and good sense to make our laws workable.

There is no merit in charging boys with being " on enclosed premises for an unlawful purpose " if they were doing what most normal boys do in exploring an old, open and empty house.

There is no advantage in prosecuting without warning for the infringement of some obscure regulation on the principle that ignorance of the law is no excuse. It is not that there is a danger of serious offences going unprosecuted. The nature of the crimes and the public effect of them make this unlikely. What is more probable is that lesser rules will be invoked by a populace determined upon their rights, and determined to take to the court many people that they should be able to handle without this expedient. We read a lot about the behaviour of husbands and wives seeking divorces or separations, but it is probable that most happily married couples could find similar evidence in their own marriages upon which, had they had recourse to the courts, they would not have remained happily married. Magistrates do not like to have to deal with squabbles which married couples should handle themselves but they can do little to prevent people seeking " their rights."

It is not very easy to isolate for close examination this element of discretion that is essential to the efficiency of the law, but its essence will be understood by all those connected with the enforcement or application of the law. There must be many occasions upon which the police could legitimately use force but do not ; many occasions upon which lawyers could embarrass a witness but do not, and many occasions upon which the judges or magistrates could give the maximum legal penalty but do not. Herein we see the exercise of that discretion of which the quality of mercy is an integral part. Once we lose this we lose the very aim and purpose of the law.

There is then a case for teaching the people not only their legal rights, but their social obligations which must needs qualify the exercise of those rights. It is this unwritten commonsense which makes our constitution workable, and which is equally essential to harmonious social life. We should see, therefore, that our age is not without discretion.

REFORM OF LOCAL GOVERNMENT—VI

(*Continued from p.* 294, *ante*)

At the beginning of April, when the greater part of this series of articles had been prepared for printing, Mr. Neville Hobson wrote to *The Times* in support of his well-known plea for maintaining the character and identity of the smaller, especially the rural, units. With the larger part of what was said in that letter we agree in principle, but we regret that Mr. Hobson allowed himself to be drawn into acceptance of the suggestion, which we believe to be ill-founded, that the establishment of most-purpose authorities of modest size would involve increased intervention by the national government in the conduct of local government affairs. We see no reason why this should be so ; there would be less necessity for intervention (we prefer this word which Mr. Hobson uses to the question-begging " interference," used lately in the *Gazette* of the County Councils Association) by the national government if all local authorities of standard type had the same powers, coupled with greater freedom in combining when a group of neighbours found their resources unequal to using those of their powers which they wished to use. Intervention by the national government in local government occurs far less widely than is commonly suggested, and where it occurs springs from three main causes. The first is that Parliament under political impulses has determined that this, that, or the other shall be done, and that local authorities shall do it. This source of intervention is inevitable, in the world in which we live, and is inherent in the relationship between local authorities and Parliament. If local authorities do not do that which the electorate as a whole has empowered Parliament to say that they shall do, intervention by some organ of the State cannot be avoided in the last resort, but the need for it could be reduced by rearranging the relationship between county councils and other local authorities, relieving county councils of most of their primary executive functions. They could then " intervene " in many instances where the national government is now obliged to do so.

The second source of intervention arises when local authorities are willing to do this or that, but want government assistance. This cause would operate less often under the reforms we are suggesting, because local authorities (of standard type but varying sizes) could pool their resources for particular objects in which a sufficient number of neighbours took an interest, with recourse to the county council (we shall say more of this in a minute) where the combined authorities were still unable to effect their united wishes. Keeping local authorities reasonably small would favour their voluntary conjunction for various purposes in various patterns, and so would leave less room for intervention by the national government than there is at present, while making it easier than it is at present for a county council to come in where there is default.

Thirdly, Parliament has hitherto obliged the national government to intervene, by giving adoptive powers, requiring consent to their adoption or their exercise, and giving powers that differ in extent according to some arbitrary standard. A great step forward was made between the wars, when many urban powers were conferred *en bloc* upon rural district councils ; we see in principle no reason why there should be different powers available according as a place is a borough, an urban district, or a rural district, and certainly no reason in principle or in practical convenience for different powers according as its population is or is not above 10,000 or 20,000, two meaningless figures which have, again and again, been treated by Parliament as if they had some mystic virtue. Like the figures mentioned above in relation to conferring or taking away the status of a county borough, these distinctions seem to us irrelevant to questions of the powers to be granted, and the only use we would make of an arbitrary population would be to say that in a borough or urban district of more than a certain population, which we should be inclined to put at 20,000, but would not mind putting appreciably lower, there should be ward committees comprising the councillors for each ward (and for this purpose we would make it compulsory for an urban district to be divided into wards), and in a borough comprising also the appropriate aldermen, and that those ward committees should exercise as many as possible of the day-to-day functions of the council. If this were done much, at any rate, of the harm which we believe to flow at present from the inflated size of so many county boroughs (and would-be county boroughs) would be minimized, and one of the reasons for desiring the disestablishment of county boroughs would have much less force than it has at present.

Mr. Hobson's letter was followed in *The Times* by one signed by Dr. Birch and a posse of professors, opposing piecemeal reform of local government, and advocating an independent commission or committee ; this in turn by a letter from Mr. Anthony Greenwood, M.P., urging that local government reform should not be treated as a party matter. So far, so good, as was

a broadcast discussion in May in which the advantages of relatively small local governing authorities were pointed out, in contrast to the local authority (so called) acting for a " region."

We said above that we would return to the idea of recourse to the county council by local authorities which had found that combination would not, of itself, enable them to effect their united wishes, and much earlier in this series of articles we said we would make county councils the authorities for major planning (really major, not the everyday business under the Town and County Planning Act, 1947), and for supervision: not, that is to say, for the ordinary executive work of local government. The supervisory function could be exercised in two ways. First, there is the line already marked out by ss. 321 and 322 of the Public Health Act, 1936. This could be made general, instead of being confined to duties under that Act, and, instead of requiring an order of a Minister to transfer powers to the county council, we would empower the county council to transfer them to itself, subject to an appeal to the Minister. This would be a procedural change which would reduce the scope of governmental intervention. Consequentially, we would repeal s. 320 of the Act of 1936, which originated in s. 57 (2) of the Local Government Act, 1929, passed at the height of the movement for enhancing the status of county and county borough councils. It will not be overlooked how a reduction in the number of county boroughs (as now known) would fit into this scheme, even though the thesis be accepted that some county boroughs must continue to exist: such a gesture as that of the city council of Coventry, for instance (*see* our Note of the Week, *ante*, p. 257) would be unlikely if a council which declined to do its duty were liable to see that duty being done by the county council without the opportunities for delaying tactics involved in the procedure of ss. 321 and 322 of the Act of 1936 at present. Obviously a county council acting in default would have to be allowed, subject again to an appeal, to act at the expense of the ratepayers of the area whose council had defaulted. Secondly, the supervisory power of the county council could be exercised along the line of s. 307 of the Public Health Act, 1936, which like s. 322 just cited could be made general. In other words, the county council should have power to assist the council of any borough or district in the administrative county, in any matter. This, again, would reduce the need for governmental intervention, because the county council would take over the duty of seeing that the smaller authority had enough money, and used the money properly. We would not even exclude the notion of letting county councils sanction loans to be raised by local authorities in the administrative county, thus reducing still further the field for governmental intervention. There is precedent for this in London, and, *mutatis mutandis*, in local government in France.

It will be seen from what we have already said that we would distribute functions, in a manner different from what has been proposed in either of the memoranda published by the local government associations. We would rest the main body of local government responsibilities upon local authorities of the middle tier. These would comprise the councils of boroughs, urban districts, and rural districts, as at present. We would not create new all-purpose authorities, as desired by the Association of Municipal Corporations; indeed we should like to see county boroughs very much reduced in number for reasons we have given, although—also for reasons we have given—we do not regard this as vital to the carrying out of the reforms we should like to see, because the mischiefs produced by county borough status at the present time could be mitigated by methods short of abolition. On the other hand we would, for the most part, leave county councils with supervisory rather than directly executive functions, and, in giving powers to the councils of boroughs, urban districts, and rural districts, we would give the same powers to all irrespective of their status, " urbanity," or population. The distinction, then, between the councils of an urban district and of a rural district would be twofold: first the obvious distinction, blurred today by the effects of depriving both sorts of council of functions which have been pushed upward to the county council—we mean the distinction that one district is urban and the other rural, so that almost everywhere the rural district has a larger area, both absolutely and in proportion to its population. The rural district in the ordinary case, as Mr. Hobson appositely pointed out in the letter to *The Times* we have already quoted, consists of separate entities (especially in winter) and for this reason we would preserve the parish council and the parish meeting as organs of local government. We do not exclude the possibility of giving the rural district councillor for a parish an *ex officio* seat upon the parish council, and we would encourage district councils to entrust to parish councils as much as possible of their daily work, thus producing a position parallel to that which we have suggested could be produced by the creation of ward committees in the larger boroughs and urban districts. We would, however, not perpetuate the nonsense of trying to compel a parish to have a parish council when it did not want one, merely because its population had grown beyond an arbitrary figure: a piece of nonsense imposed upon the rural population in s. 47 of the Local Government Act, 1894, by doctrinaire politicians anxious to compel country people to be free from the squire and the parson, and perpetuated in s. 55 of the Local Government Act, 1933. Where there was no parish council, either because the population of the parish was below the figure for which a parish council is considered normal, or because, being above that figure, the local population still had not elected a parish council, we would be content with government by the parish meeting. When all is said that can be said about " democracy," and when all is done that can be done about reform, it remains true that the parish meeting in a rural parish is the sole organ of democracy (properly so-called) which survives in England. Since this body would not want to assemble as often as was necessary to carry out the daily business of the parish, increased as this would be, on our view, by letting functions of the rural district council be carried out upon the spot, we see no reason why the parish meeting should not establish as many *ad hoc* committees as it felt inclined to have for different purposes.

Returning from the rural district to the urban district and the borough, we have said that on the one hand we would bring their work nearer to the people by the institution of ward committees as already explained, in all those boroughs or urban districts beyond a certain size. We have said also that we recognize that many of the boroughs, urban districts, and rural districts now existing would not with their own resources be able to carry out duties which they ought to carry out, and we have suggested that the best way of providing for those duties would be by *ad hoc* combinations with their neighbours for particular purposes. We agree once more with Mr. Hobson in his letter to *The Times*, that difficulties have arisen and are likely to arise where you get a combination of local authorities with different powers, but this would not occur, certainly not to the same extent, where all had equal powers however different their resources.

We do not forget that one of the reasons regularly advanced for generations past, for amalgamating local government areas and treating population as a specially important factor, has been the suggested need to find enough work for highly paid officials or, putting this another way, to find enough rateable value for the payment of high salaries. We believe there is much loose thinking about this. If functions were carried out by a joint committee representing several local authorities, the committee

would have to have at its disposal a committee clerk and other staff, according to the nature of the function, but the resources of the joint committee would *ex hypothesi* be sufficient for the purpose. The process of thought seems, hitherto, to have been that an area of substantial size governed by a local authority with many functions could not get along without a hierarchy of highly paid professional and non-professional officials, and therefore that areas of size large enough to employ these persons must be brought into existence.

It will be seen that we have no wish to see small local authorities merged into larger units. Some of the boroughs of the present day have no deep roots in history and many, if not most, of the existing urban districts were more or less artificially created within the last century or so, because in the mid-nineteenth century this was the only way of obtaining a representative form of local government. Many, however, had historic roots before the Local Government Act, 1858, as rural parishes, and the fact that a borough or an urban district is (as such) a parvenu is not of itself a reason to get rid of it. On the other hand the fact that a borough, small though it be, has deep historic roots is one of the strongest reasons for allowing it to continue even in the twentieth century : the Government in 1945 recognized this when the Local Government Boundary Commission Regulations were printed, even though they contemplated that such boroughs would often be merged with surrounding rural districts, largely for reasons which, on our view of the matter, need not be allowed to operate. We would, then, leave the existing boroughs, urban districts, and rural districts pretty much alone (we are not here speaking of county boroughs, about which we have already said what we would do) without prejudice to the possibility of union into larger entities, where this was desired by the local people : compare what we have said above about " wishes of the inhabitants " in the schedule to the Local Government Boundary Commission Regulations, 1945.

From the functions assigned to these most-purpose authorities, diverse as they would be in resources and in population, we would exclude police, which is not suitable for management by any small authority. We would exclude also the most important roads. The disestablishment of rural district councils as highway authorities in 1929 was not in accordance with what we believe to be sound principles, but there would have to be a re-examination of the relationship between all classes of local authority, in regard to highways.

We are not convinced that the recasting of the fire brigade service, which was attempted between the wars, was on the right lines when finally carried out after the second world war, but here again detailed examination is required, of the question how the maintenance of fire brigades outside the largest boroughs can again become really a local government function. As regards most functions now carried on by a county council as the primary authority, we should, in principle, desire to restore as many of these as could be to genuinely " local " government, by entrusting them to the councils of boroughs, urban districts, and rural districts. The verb " restore " is not, we admit, quite accurate in this context, because some of these functions never rested in the hands of these authorities, having been conferred from the outset upon county councils, but there are others which did for years remain with local authorities in the more proper sense, and were taken away from them, either for political reasons or in deference to the doctrinal fallacy (as it seems to us to be) that a function ought not to be carried out by an authority whose resources were not equal to high payment of a functionary. The difficulty about the resources of the small most-purpose authority can (instead of abolishing that authority) be resolved by *ad hoc* combinations, differently formed for different purposes, and by new facilities for financial assistance from the county as a whole.

As regards the county council we have already indicated what seems to us to be its most suitable function in a local government system reorganized for the purpose of combining efficiency with responsibility to the electorate. With few direct executive duties, and a general duty of supervising and assisting, the councils of administrative counties could, like the councils of the most-purpose authorities within their counties, be left in most cases with their historic names and areas. Admittedly the three or four very small counties, which hardly comprise a larger area or population than the largest of the local authorities within their boundaries, would have to be amalgamated. We have indicated on the other hand that we should be inclined to remove some new and essentially fictitious boundaries, which have been drawn through historic counties, so that the boundaries of the administrative county and the geographical county might coincide. The Local Government Boundary Commission Regulations, 1945, did instruct the Commissioners that they should not ordinarily unite counties unless the population of the smaller or smallest county in the proposed combination was less than 100,000, but, once more, we see no special virtue in looking at population in this context : the hundred thousand is well enough as a working rule, so long as it is not taken to mean that a county with a population less than 100,000 ought *prima facie* to be got rid of. We would pay much more attention to historic continuity than to population, and much more attention to the " wishes of the inhabitants " of the respective counties than the Local Government Boundary Commission was proposing to pay in certain cases. We should not rule out the creation of new counties by division and amalgamation, in a part of the country like South Lancashire or Tyneside, any more than we rule out an extension of London in the mode we have explained, but we consider that *ad hoc* arrangements for particular purposes between local authorities on the two sides of a county boundary (interchange of traffic ; sewerage ; water ; education ; or as the case may be, and always with an eye to the convenience of making arrangements with different neighbours for different purposes) would ordinarily be better than cutting counties up.

The existing counties and most of the existing areas of government within the counties are the product of natural growth, for all the activity of the nineteenth and twentieth centuries in providing new governing authorities. Before the nineteenth century, functions as they came along were assigned, almost as a matter of course, to existing functionaries. In the nineteenth century Parliament ran riot with new bodies, first by local Act and afterwards in the general law, until in the last quarter of that century they crystallized into the structure that we know today. The first four decades of the twentieth century were marked by increasing stresses between the component members of that structure, called on, as they were, to accept ever greater burdens. This was the epoch of the popular press, the propagandists, and the politicians. The widening franchise ending with adult suffrage meant that parliamentary power was not won or lost over international or external issues so much as over *panem et circenses* in their modern shapes. Two parties ; three for a short time, and now two, have been occupied in the game of *Codlin* versus *Short* ; the anxiety of politicians to satisfy the propagandists, combined with Treasury anxiety to safeguard the Exchequer, has piled duties and powers upon the large local bodies which were most accessible, for persuasion and for accountancy alike. The Coalition Government in 1945 saw that the structure of local government had grown distorted, and sought by establishing the Local Government Boundary Commission to correct adjustments produced by overstrain. Wisely, as we said then and still believe, the Government removed the Commission's work as far as possible from politics and tried to set it free from the pressure of the vested interests which had grown up in local government at every level. Unfortunately,

as the Commission recognized in a series of reports, the time had gone by for mere adjustment of the distorted structure. The Local Government Boundary Commission (Dissolution) Act, 1949, was a confession of failure and, impliedly, a challenge to the country—above all to local government interests which might, even at that eleventh hour, have come together and worked out a fresh structure and a fresh distribution of the weight the structure had to carry. The hopes which we expressed, as did many others, were in vain ; to agree proved too difficult for those who control the local government machine and speak for local government. The time has come, therefore, for a new approach, an approach which we suggest should be along the natural English path of using the authorities you have instead of tearing their areas to pieces. In this context, we feel more akin to Adam Wayne than to the Napoleonic concepts of the " all-purpose " school. We find the root of the matter in Hobson more deeply than in Robson, and although 1888 and 1894 were years of innovation, we prefer a Ritchie and a Fowler to a Neville Chamberlain, and would now build again on the foundation of the Acts of those years rather than the Act of 1929. We have no respect for Fipps (" poor friend of Mr. Sidney Webb ") who " ran about the country with an axe, hacking branches off the trees whenever there were not the same number on both sides." In contrast to the well-meant but abortive effort of 1945, we would redistribute functions, and, in doing so, would always put in the forefront of reform the necessity for local government which is really local, constantly under the eyes of those whom it affects.

WEEKLY NOTES OF CASES

QUEEN'S BENCH DIVISION

(Before Lord Goddard, C.J., Hilbery and Donovan, JJ.)

Re M (an infant)

April 28, 1954

Child—Care by local authority—Child boarded out with foster parents—Desire of mother that child should live with putative father—Children Act, 1948 (11 *and* 12 *Geo.* 6, *c.* 43), *s.* 1 (3).

APPEAL from an order of GERRARD, J., in chambers.

An application was made to GERRARD, J., by the Worcestershire County Council for an order of *habeas corpus* for the production and delivery to them of a child, M. The child, who was three years old, was the illegitimate child of a Miss M. The putative father of the child was one S. No application order had been made against him, but he had made some contribution to the upkeep of the child. Miss M was employed as a domestic servant ; on March 30, 1951, the county council assumed care of the child ; and on the same day, under regulations made under the Children Act, 1948, they boarded the child out to a Mr. and Mrs. Z. S, who had subsequently married, wished that he and his wife should look after the child, and this was also desired by Miss M. GERRARD, J., made an order directing the county council to deliver the child to Mr. and Mrs. S. Mr. and Mrs. Z appealed.

By s. 1 of the Children Act, 1948, (1) " Where it appears to a local authority with respect to a child in their area appearing to them to be under the age of seventeen—(*a*) that he has neither parent nor guardian . . . ; or (*b*) that his parents or guardian are, for the time being or permanently, prevented . . . from providing for his proper accommodation, maintenance and upbringing ; and (*c*) in either case, that the intervention of the local authority under this section is necessary in the interests of the welfare of the child, it shall be the duty of the local authority to receive the child into their care under this section. (2) Where a local authority have received a child into their care under this section, it shall, subject to the provisions of this Part of this Act, be their duty to keep the child in their care so long as the welfare of the child appears to them to require it and the child has not attained the age of eighteen. (3) Nothing in this section shall authorize a local authority to keep a child in their care under this section if any parent or guardian desires to take over the care of the child, and the local authority shall, in all cases where it appears to them consistent with the welfare of the child so to do, endeavour to secure that the care of the child is taken over either—(*a*) by a parent or guardian of his, or (*b*) by a relative or friend of his . . . "

Held, that, the child having got into the possession of Mr. and Mrs. Z simply by virtue of the Act and the regulations made thereunder, the Act provided that the child was to be returned to the local authority if they demanded it, and there was no answer to the claim made by the county council in the present case ; that, so far as subs. (3) was concerned, the county council, being satisfied that the mother desired to take over the care of the child, the court was bound to arrange that she should have the care, the manner in which she would take care of the child being a matter for her. The appeal must, therefore, be dismissed, but the order of GERRARD, J., would be amended by omitting the provision that the child should be delivered by the county council to Mr. and Mrs. S.

Counsel : *Simon, Q.C.*, and *Blennerhassett*, for Mr. and Mrs. Z ; *R. J. Parker* for the county council ; *Laskey* for the mother.

Solicitors : *Stafford Clark & Co.*, for *W. S. Mobberley & Son*, Lye ; *Sharpe, Pritchard & Co.*, for *W. R. Scurfield*, Worcester ; *Edwin Coe & Calder Woods*, for *Tree, Hemming & Johnston*, Worcester.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

WATERMAN *v.* WALLASEY CORPORATION

HESKETH *v.* SAME

April 27, 1954

Shop—Sunday closing—Second-hand car dealer—Premises permitted to be open for sale of petrol and accessories—Second-hand cars on view for sale—Inspection of car by customer and discussion with attendant in one case—Customer taken for demonstration ride in another case—Shops Act, 1950 (14 *Geo.* 6, *c.* 28), *s.* 47.

CASES STATED by Wallasey justices.

At a court of summary jurisdiction at Wallasey an information was preferred by the respondents, Wallasey Corporation, charging the appellant, Harry Waterman, that he, being the occupier of a shop in which he carried on business as a dealer in used and second-hand motor vehicles, did not close the shop for the serving of customers in connexion with such business on August 2, 1953, being a Sunday, contrary to the Shops Act, 1950, s. 47. A similar information was preferred by the respondents against the appellant, William Cecil Hesketh.

The justices found, in the first case, that the appellant sold petrol and motor-car accessories at his shop on seven days a week. Second-hand motor-cars were on view for sale in part of the premises. On August 2, 1953, persons entered the shop and walked over to a motor-car. An attendant went to the vehicle, a discussion took place, and they inspected the car. No money was seen to pass, and the persons in question then left the premises. In the second case the facts found were similar, except that an employee of the appellant took persons for demonstration drives in the motor vehicle in question. In each case the justices convicted and fined the appellants, who appealed.

Held, in the first case, that the court could not say that the shop was open for serving customers merely because a customer came and looked at a car ; the justices had adopted too vigorous a construction of the Act ; and the appeal would be allowed ; but, in the second case, the fact that customers were taken for demonstration rides in a car by an employee made a material difference and afforded evidence on which the justices were entitled to come to their decision ; and the appeal in that case would be dismissed.

Counsel : *George Bean* for the appellants ; *Nicklin* for the respondents.

Solicitors : *S. Eversley & Co.*, for *Gerald Strong*, Liverpool ; *Field, Roscoe & Co.*, for Town Clerk, Wallasey.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

ADDITIONS TO COMMISSIONS

SOUTHAMPTON COUNTY

Henry Herbert Hore, Holmsley Lodge, Burley, Ringwood.
Lt.-Col. John Harvey Hulbert, Fir Hill, Droxford.
Robert James Leaver, 77, Haig Road, Aldershot.
Mrs. Vera Dilys Neate, Grove House, Quarry Road, Winchester.
Lionel Stuart Vail, Clongar, Newton Road, Lee-on-Solent.
Mrs. Oona Mary Walker, Malthouse Cottage, Hythe.
Mrs. Margery Elisabeth Weekes, Lawn Cottage, Horndean Road, Emsworth.
Mrs. Marjorie Annie Whidborne, Park Farm, East Worldham.
Frederick Walter George Young, 2, Rectory Cottages, Fawley.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 40.

A COMPANY HEAVILY FINED

A limited company pleaded Guilty at the Guildhall, London, recently, to four summonses, each alleging that the company had been knowingly concerned in dealing with prohibited goods with intent to evade the export prohibition applicable thereto and contained in the Export of Goods (Control) Order, 1951, contrary to s. 186 of the Customs and Excise Consolidation Act, 1876, s. 15 of the Finance Act, 1935, and s. 12 of the Finance Act, 1943.

For the prosecution, it was stated that the goods concerned was anti-submarine and anti-torpedo netting which was imported into Spain between April and October, 1952, and paid for by the official Spanish Government Scrap Agency. Some was invoiced to a Spanish company, of which a director of the defendant company was also a director. The quantities involved were 211 tons, 202 tons, 393 tons and 1,040 tons respectively, and the maximum penalties were £21,738, £16,813, £32,309, and £78,989.

The netting was purchased in Glasgow and Portsmouth and over 200 tons of it was new and unused.

No licence was obtained for the first two shipments, as when the licence was applied for, it was described as wire netting, and the company was told no licence was required. For the third and fourth shipments, the vendors raised a query about a licence, so the Spanish director applied for a licence on grounds that the selling price was £40 5*s*. per ton. The licence was granted, but the actual selling price was approximately £26. The licence was therefore void because of the false statement in application.

Gross profit on the goods was about £30,000, only £11,000 had been received in the United Kingdom. The balance was still held by the Spanish director in Spain. The company had tax liability of over £4,000 arising out of the transaction.

The company had done no business since 1953, when the inquiries began.

The netting was stated to have been lying in the scrap merchants' yards for some time, and all the scrap merchants knew that Spain was offering very high prices for scrap. It had not been found possible to serve summonses on the Spanish director who, said the defence in mitigation, dominated, used and controlled the defendant company.

The company was fined £2,500 on each summons and ordered to pay 200 guineas on the first.

COMMENT

This case indicates the ease with which loopholes can be found in the Export Regulations if a person is determined, as the Spanish director in this case was, to flout the law and to have no scruples about the making of false statements, and it is to be regretted that it was found impossible to bring him before the court.

The 1951 Export of Goods (Control) Order has, of course, been repealed, and the present order covering the same ground is the Export of Goods (Control) Consolidation Order, 1954, which came into force on February 8 last.

(The writer is indebted to Mr. A. G. J. Chandler, clerk to the City justices, for information in regard to this case.) R.L.H.

No. 41.

STANDARD FOR PORK SAUSAGES SET AT 65% MEAT CONTENT

A Long Ditton butcher was the defendant in a case heard recently at Kingston County Magistrates' Court which was described as being of considerable importance to butchers.

Three informations had been laid by an Esher Council sanitary inspector, charging the butcher that he had sold to the prejudice of one of the council's sampling officers certain pork sausages which were not of (*a*) the quality and (*b*) the substance and (*c*) the nature demanded.

The certificate of the public analyst, a copy of which had been served with each of the summonses, stated that the meat content of the sausages was forty-eight *per cent.* and that in his opinion, pork sausages of ordinary commercial quality should contain not less than sixty-five *per cent.* of meat.

The prosecution relied on the decision in the case of *Bowker* v. *Woodroffe* (1927) 91 J.P. 118, that if there is no recognized standard for the article purchased, it is the duty of the court to fix one based upon the evidence before it, not necessarily a quantitative standard, but to have regard to a minimum below which the article should not fall; and the prosecution also relied on the decision in *Broughton* v. *Whittaker* (1944) 108 J.P. 75.

The prosecution submitted that the particular sausages in question were in any case so deficient in meat content as to not be of the nature of pork sausages, and that to be pork sausages there should at least be more pork than anything else in the sausage, and also that the deficiency in meat content was a defect of quality, and for the three separate informations and summonses the prosecution relied on the concluding words of the judgment of Lord Goddard, C.J., in *Moore* v. *Ray* [1950] 2 All E. R. 561.

The bench were reminded that the extent to which they could take into account their own knowledge was limited by the decision in *Preston* v. *Redfern* (1912) 76 J.P. 359, in particular the judgment of Mr. Justice Pickford.

After hearing evidence by the sampling officer, as to the purchase and due compliance with the statutory formalities on sampling, and hearing evidence by the informant that the council had authorized the prosecution, and that the Meat Products (No. 3) Order, 1952, S.I. 1952 No. 2251, which had fixed a minimum standard for pork sausages, was not now in force, and after hearing the evidence of the public analyst in support of his certificate and also evidence that the public analyst had during the previous year examined not less than 109 official samples of pork sausages and pork sausage meat where the average meat content was 67·5 *per cent.* and only in five cases had there been less than sixty-five *per cent.*, the defendant's solicitor accepted the views of the relative law put forward by the prosecution and the defendant, who had pleaded " not guilty ", gave evidence that he had purchased bulk sausage meat from a wholesaler in good faith, only because he had not enough meat to make sausages up to his usual standard.

In cross examination, the defendant agreed that at the present time pork sausages of ordinary commercial quality should contain two thirds meat, and he could not quarrel with the public analyst's opinion that the minimum meat content should be sixty-five *per cent.*

The bench found the defendant guilty, and said that the standard for pork sausages should properly be that set by the analyst, *viz.* sixty-five *per cent.* meat content.

The bench fined the defendant £1 on the " quality " summons, and took the other two summonses into consideration when fixing that penalty, and awarded the prosecution £5 10*s*. costs.

COMMENT

The atmosphere in which this case was contested may well be measured from the statement made to the bench by Mr. A. F. C. Boyes, the assistant solicitor to Esher Council, who prosecuted and to whom the writer is greatly indebted for this report. At the conclusion of the evidence, Mr. Boyes told the court " It is more important for the housewives of Surrey that you should find a standard than that you should mulct the defendant " and that the bench accepted this view is clearly indicated by the nominal penalty imposed.

With the unlamented passing of so many statutory instruments, the cases referred to above are likely once again to be heard frequently in the courts, for they are the ones upon which prosecutors in cases brought under s. 3 of the Food and Drugs Act, 1938, most frequently rely when the charge, as in this case, necessitates the fixing of a standard of quality by the bench.

It will be recalled that in *Broughton* v. *Whittaker*, *supra*, a case concerned with the selling of a liquid termed a cordial, the Divisional Court followed *Bowker* v. *Woodroffe*, *supra*, and decided that where there is no fixed standard of quality for the article sold, the court should have acted on the uncontradicted evidence of the public analyst and found the offence proved.

Preston v. *Redfern*, *supra*, the third case relied upon by the prosecution, was in the view of Lord Alverstone, C.J., who presided, an unsatisfactory case, and he was at pains to make it clear that the decision in that case was not to be regarded as a precedent as the facts of the case were peculiar. The case which concerned the sale of milk, alleged to be sub-standard, contained in the judgment of Pickford, J., the statement that in such cases the justices may use their own knowledge to a certain extent, but that they are not entitled to say that the contrary of the analyst's certificate is proved, and that a commodity (in that case milk) is within the regulations simply because they think so from their own knowledge. R.L.H.

PENALTIES

Hendon—April, 1954. (1) Assault occasioning grievous bodily harm, (2) malicious damage to clothing. Two defendants, each sentenced to three months' imprisonment. The defendants, a labourer and a lorry driver, sat in an underground train next to three Indian students. The labourer jostled one of the students and punched him about the face; a passenger sitting opposite intervened to help the student and was attacked; his eyes being badly swollen and his nose fractured he was taken to hospital.

MISCELLANEOUS INFORMATION

STOCKPORT POLICE REPORT

In the county borough of Stockport, both the regular and the special constabulary are considerably below strength. In his report for 1953, Mr. W. Rees, the chief constable, states that the authorized establishment of the force is 234 and the actual is 214. Recruitment during the year was two above the figure for resignations and retirements, but applications were only seventy-two against eighty-nine the previous year. The authorized establishment of special constables is 400, but the actual strength is only ninety-five. Mr. Rees expresses his gratitude to those who are serving, and appeals once again to able bodied men to volunteer.

We live in a welfare state, and take it for granted that there are welfare officers in most large organizations and undertakings. Most police reports contain references to welfare, and the Stockport report says that an inspector has been appointed welfare officer for the force. The chief constable adds "This is in addition to his duties as training officer. This is, I believe, a step in the right direction, as, with such a large number of young officers in the Force, an interest should be taken in their domestic welfare so that they can more readily settle down in their new career." When dealing with the question of sickness, the report states :

" All men on sick leave are visited by the welfare officer at least once weekly and I am kept fully informed as to the sick man's condition, progress and any special circumstances."

On the important subject of housing, satisfactory progress is recorded, and only fifteen men are awaiting the provision of accommodation.

Unfortunately there has been an increase in street accidents but Stockport can at least claim some credit for what is being done in the matter of prevention, since the increase was 2·6 *per cent.* against nearly nine *per cent.* for the country as a whole.

An interesting paragraph relates to charitable work by the police.

" Stockport Police Aided Clothing Association continues to be very active.

" A large number of cases of ill-clad children has been investigated and forty-eight boys and thirty-three girls have been provided with clothing suitable to individual requirements, at a total cost of £410 0*s.* 0*d.*" The chief constable expresses appreciation to those ladies and gentlemen who assist in committee work, and in the distribution of clothing.

KENT PROBATION REPORT

Mr. W. James Bray, principal probation officer to the county of Kent, begins his report for 1953 with the welcome statement that the fall in the number of new cases in 1952 continued in 1953, and that juvenile delinquency so far as Kent is concerned is on the decrease. The number of cases remaining under supervision of the Kent probation officers at the end of the year was the lowest recorded for three years. This is not due so much to any less use of probation by the courts, as to the decrease in juvenile delinquency.

There was a substantial reduction in the number of persons placed on probation by courts of assize and county quarter sessions, a total of fifty-nine as against 133 in 1952. The report states : " It is probable that the decline in the number of probation orders was mainly due to the more serious nature of the offences, and a preponderance of prisoners with criminal histories which made them unsuitable cases for probation treatment. In 1952 115 reports were submitted recommending probation, whereas during 1953 it was possible to submit only fifty-eight such recommendations."

After-care work continues to increase as does matrimonial work, in which the good offices of probation officers appear to have met with considerable success.

This report, as usual, contains a number of detailed statistical tables and graphs, which must prove very valuable to local magistrates and others in the county.

RESIDENTIAL NURSERIES

We have commented previously on the heavy cost incurred by one county council in building a new residential nursery and we were interested, therefore, to read in the current issue of the County Councils' Association *Official Gazette* of arrangements made in another county (Northumberland) for the boarding out of young children. This has resulted in the closing of a nursery which the council had contemplated replacing by a new building. The Children's Committee made special efforts to find suitable foster homes, not only for the children already in the nursery, but also for the immediate reception of babies and young children who come into care for short periods. It was decided to offer a boarding-out allowance of £2 10*s.* 0*d.* a week together with bedding and clothing on loan, to foster parents who were prepared to take such children for a period of up to three months and a panel of suitable foster mothers was established. As showing the care which was taken it is noted that all the foster mothers and their families are X-rayed ; the children themselves are tested for tuberculosis as soon as possible after they come into care and all are visited frequently. No special difficulties have been experienced and it has always been possible to place a child, however dirty and however short notice, directly into a suitable foster home. Experience has shown that children dealt with in this way and who are never subjected to the institutional environment of a residential establishment settle down in a permanent foster home much more readily, if this should be found to be necessary after the three months. What has been found best for the children has also proved to be the cheapest as the cost of maintaining a child in a residential nursery may be from £6 a week upwards.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

Mr. H. Johnson (Kemptown) asked the Secretary of State for the Home Department in the Commons what action he proposed to take to stamp out the hooliganism practised by young persons who had in various parts of the country banded themselves into gangs known as Edwardian gangs and who by the reason of their brutality were becoming a menace to law-abiding citizens.

The Secretary of State for the Home Department, Sir David Maxwell Fyfe, replied that he had received few representations on that subject, but he was aware that in certain parts of London youths affecting the dress mentioned associated together, and the Commissioner of Police of the Metropolis assured him that the police were on the alert to suppress any tendency to hooliganism on the part of those youths.

In the six months ended March 31 last, twenty-four persons under twenty-one years of age and operating in groups of three or more, were arrested in the Metropolitan police district for indictable offences involving violence against the person, and 456 youths were arrested for other offences involving rowdyism.

He had received reports on isolated incidents in other parts of the country, but on present information he had no reason to suppose that the problem was widespread or that the police were not taking appropriate action.

Mr. Johnson asked whether Sir David was aware that many magistrates who served in juvenile courts were deeply concerned at their lack of power to deal with those youths of sixteen and seventeen. Would he consider introducing amending legislation to give additional powers to the magistrates and also consider amending the legislation relating to cases involving assault and battery, so that magistrates could impose suitable corporal punishment ?

Sir David replied that the powers that were open to magistrates were of almost infinite variety since the passing of the 1948 Act.

Lt.-Col. M. Lipton (Brixton) : " Would the right hon. and learned Gentleman bear in mind that these louts who, long ago, should have been smacked on the behind by their parents are, for the most part, weak characters who are easily led to a course of violence ? Would he encourage social workers to establish contact with these empty-headed youths before the problem gets out of hand ? "

Sir David : " Certainly. I shall do anything I can to encourage all people of goodwill who are ready to help in dealing with those who are addicted to crime."

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, May 4

HOUSING REPAIRS AND RENTS BILL, read 2a.

HOUSE OF COMMONS

Monday, May 3

FINANCE BILL, read 2a.

Friday, May 7

LAW REFORM (LIMITATION OF ACTIONS, &C.) BILL, read 3a.
SLAUGHTER OF ANIMALS (AMENDMENT) BILL, read 3a.
POOL BETTING BILL, read 3a.

PERSONALIA

APPOINTMENTS

Superintendent Harold John Price, of Cirencester, will be the new police chief at Staple Hill, near Bristol, in succession to Superintendent J. W. Hallam.

RETIREMENTS

Mr. Charles E. Bradbury, town clerk of Wallsend for twenty-four years, is to retire after fifty-one years' local government service.

Mr. George T. Bradbury is retiring from his position as the clerk of Sevenoaks urban district council after nearly thirty-four years' service. Mr. A. C. Thwaites, at present deputy clerk, has been appointed Mr. Bradbury's successor, his new duties to commence from May 21.

Mr. Francis Gerald Whittuck, of F. G. Whittuck & Co., solicitors, of Keynsham, Somerset, is retiring after thirty-one years' service as clerk to the justices of that town. Mr. Whittuck was admitted in 1902.

OBITUARY

Mr. Robert Albert Wheatley, former clerk to the justices of the county of Pembroke and clerk to the Pembrokeshire county council, has died at the age of eighty-one. Admitted in 1897, Mr. Wheatley served as deputy clerk to the justices of Cardiff, then Burnley, where he was also deputy town clerk. In 1901 he was appointed assistant solicitor to the county borough council of Swansea and deputy clerk to the Swansea justices, in 1905 he became assistant clerk of the peace to Durham County Council, and in the following year came appointments as deputy clerk of the peace and deputy clerk of that council. In 1911 he moved to Pembrokeshire and took up the posts of clerk of the peace and clerk of the council for the county of Pembroke, which he held until 1939. During his period at Pembroke, he also became clerk of the peace for Haverfordwest, his home town. That was in 1913.

Mr. Geoffrey Henry Pavey Smith, senior partner in the firm of A. E. Smith & Son of Nailsworth, Gloucs., has died, aged seventy-two. Mr. Pavey Smith was clerk to the Nailsworth petty sessional division for forty years, and in 1912 succeeded his father as clerk to Nailsworth urban district council.

Mr. Charles Ernest Burton, a solicitor of Daventry and under-sheriff of Northamptonshire since 1944, has died. He was former coroner to Northampton and clerk to Daventry justices. Mr. Burton was admitted in 1914.

Mr. Charles Hornal, county clerk of Aberdeenshire, has died aged fifty-four.

OPEN SPACES AND THE PLANNING BILL—AN INJUSTICE

The purpose of this article is to draw attention to certain provisions in the Town and Country Planning Bill which appear to operate to the disadvantage of local authorities. The argument in its shortest and most general form is put in this introductory paragraph and is expanded and amplified in the later paragraphs of the article.

The new Planning Bill is the complement to the Town and Country Planning Act, 1953, which abolished development charge. The Bill makes all the necessary consequential arrangements both by way of "unscrambling" so far as the past is concerned and laying down new principles to apply in the future. Most of the provisions which affect local authorities in their dealings with land follow, therefore, a fair and obvious pattern. Where a local authority has acquired land and paid a development charge, nothing further remains to be done and a line can be drawn across the books. Where they have bought on the basis of existing use, but no development charge has yet been determined, the Central Land Board will pay the owner of the admitted claim and will have the right to recover the amount from the local authority. Where local authorities buy in the future, they will pay existing use value, plus admitted claim and interest represented by a supplement of one-seventh.

Some activities of local authorities, however, were freed from development charge—for example, the provision of allotments and smallholdings—whilst others, notably the provision of open spaces, were made liable to a reduced charge. In the case of open spaces this was one-quarter of the value of the land for housing purposes. One would expect that in these cases the Bill would not saddle local authorities with paying the admitted claim in full because the abolition of development charge in the case of smallholdings or allotments confers no advantage on the authority and in the case of open spaces confers only a very small advantage. The Bill in fact in cl. 55 recognizes the fairness of this principle so far as *past* transactions are concerned*: it does not, however, make similar provision as regards future acquisitions where the local authority will be responsible for purchasing the land on the basis of existing use plus the admitted claim plus the supplement of one-seventh, although the authority has obtained either no advantage or a very small advantage from the abolition of development charge. This unjust and illogical state of affairs may be put right to some extent by a grant under cl. 53. The point involved, however, is not only whether and to what extent local or national finances should bear a certain charge. Development Plans have by now been presented from a very great many parts of the country, and have been prepared upon a certain basis. In the case of open spaces, allotments and other agricultural uses the Bill upsets this basis, and to that extent may necessitate revision of the Development Plans themselves.

* Smallholdings are not given this special treatment.

1947 ACT PROVISIONS

The Act of 1947 greatly increased the possibility that urban authorities would be able to provide adequate open spaces for their populations. It enabled land to be purchased at existing use value and developed on payment of a development charge of only one quarter of the value of the land for housing purposes (Central Land Board Circulars 9/49 and 3/51). This reduced charge covered the erection of buildings appropriate to the public open space, *e.g.*, restaurants primarily for the convenience of persons using the open space. The charge had only to be paid when development took place and an authority were thus able to spread their expenditure over several years if they so desired, safeguarding the site by purchase in one year and deferring development until funds were available.

Many hoped that these provisions would enable cities and towns to remedy deficiencies in open space provision which were known or believed to exist in most areas. These deficiencies arose mainly because of the expense of providing open space where it should properly be located, *i.e.*, in reasonable proximity to the residential neighbourhood which it is designed to serve. Suitable undeveloped land frequently commanded a high price because of its potential building value. Based upon the 1947 Act, Town Maps have been prepared which seek to redress the unfavourable balance of open space which exists in most areas.

What has been said about open spaces holds good in general for allotments, and further allotment areas have been allocated in Development Plans without undue regard to financial considerations. In the case of allotments no development charge was payable by the local authority.

POSITION UNDER THE BILL

If the new Bill is passed into law in its present form local authorities who have contracted to purchase land for open spaces or allotments since November 18, 1952 (*see* cl. 55 (2) (*c*)) or who so contract in the future will be responsible for the payment not only of existing value but also the unexpended balance of any admitted claim on the £300 million fund and the supplement of one-seventh (cl. 35). It is true that by virtue of cl. 53, the Grant Regulations may make the whole of the expenditure grant earning, and it may be that the Minister will undertake during the passage of the Bill that grants will be made to the maximum of 50 *per cent.* permitted by the Bill.

The fact remains that in general the Bill provisions are less favourable than the 1947 Act provisions, and may seriously delay, if not altogether prevent, the implementation of Development Plans already approved. It will be observed that only in one class of case could the new provisions operate to the advantage of an urban authority. This class arises where open spaces (or allotments) are to be provided in places where there are at present buildings. Here the greater part of the purchase price will be attributable to the existing use (which by sch. 3 to the Act of 1947 includes the right to rebuild) and the authority may get a grant to their expenditure under this head which would not have been available before. It must be wondered whether this class of case is likely to be found outside the largest cities and towns in the country and even then it may only be to a limited extent. The allocation of existing buildings for open space purposes is likely to bring opposition from owners who forsee the loss of a profitable right to rebuild, and to lead to an increase in the cost of clearance and development as open space. It may well be that where open spaces are to be provided in this way in central areas, their provision forms part of a scheme of redevelopment for which grant is in any case available. For these reasons it is submitted that the new Bill will only increase the difficulties of urban authorities, some of whom find that the cost of preparing, levelling and seeding a site for open space, together with the cost of equipping it to a modest degree, is more than their hard pressed resources will stand.

SPECIAL POSITION OF PRE-1952 PURCHASES

The Minister has recognized the special position of open spaces and allotments so far as past transactions go in cl. 55. Under its provisions local authorities will not have to repay to the Central Land Board the amount of any admitted claim paid by the Board to the former owner from whom an open space or an allotment has been acquired, provided that a contract has been signed or a notice to treat served before November 18, 1952.

Thus, although in general past transactions of local authorities are " unscrambled," purchases of open spaces and allotments which have taken place are untouched by the Bill so that the local authority will be liable only for compensation on the basis of existing use. It is to be hoped that the Minister may yet see the need to afford similar exceptional treatment for open spaces and allotments provided after November 18, 1952.

The fact that a grant may be payable goes some way to redress the injustice, but a 50 *per cent.* grant does not go far enough. Power to pay a higher rate of grant for these cases should be taken by the Minister, so that in appropriate cases the whole of the admitted claim can be recovered by the authority by way of grant. Only thus, in the writer's view, can the Minister preserve the basis upon which so many development plans have been prepared. If that basis is not preserved, it might well be that a realistic reassessment of the possibilities of open space provision would have to be made by many authorities. J.K.B

A LINK WITH THE PAST

Many cultivated people, besides practitioners on the Chancery side, will have read with sorrowful interest the case *Re British School of Egyptian Archaeology* [1954] 1 All E. R. 887. It is appropriate, at this time, that lawyers should join with scholars in saluting (in Mr. Justice Harman's words) " the memory of a great man "—Sir W. M. Flinders Petrie, the centenary of whose birth was celebrated a year ago. His services to Egyptology were incalculable ; to his discoveries we owe a vast part of our knowledge of one of the most colourful and fascinating periods in the history of the human race.

Petrie founded the School in 1905, with the objects of conducting excavations, acquiring antiquities, training and assisting students, publishing works on Egyptology, and holding exhibitions. In the thirty-four years of its active life, up to the outbreak of war in 1939, the School was responsible for producing and collecting an enormous mass of material which has given us a graphic picture of the civilization of Egypt and the life of her people from five milleniums and more ago. Six years of war, and the melancholy events since 1945, have now rendered further work in Egypt impossible. The Managing Committee of the School therefore found it necessary to take out a summons, under s. 28 of the Charitable Trusts Act, 1853, to determine whether the funds of the School were held on valid charitable trusts and, if so, whether the matter might be referred to chambers to settle a scheme for the application of the remaining funds, *cy-près*, to the establishment of " Flinders Petrie Scholarships " for the study of Egyptian Archaeology. Mr. Justice Harman has now determined both questions in the affirmative, and the memory of the Founder will be perpetuated in a fitting manner by the continuation, on practical lines, of the work to which his life was devoted.

Nowhere else in the world is the sense of immemorial tradition so strong as in Egypt. In Western Europe a monument dating from before the tenth century A.D. is ancient and rare ; the great Roman remains are less than two thousand years old ; the splendid temples of Athens date back little more than four hundred years before the birth of Christ. In Egypt these dates belong, relatively, to modern times. The great edifices still to be seen a few miles from Cairo go back nearly five thousand years, and exhibit a standard of artistic development and mathematical and scientific knowledge which could have been attained only after many centuries of settled government and high civilization. Its origins, indeed, are lost in the mists of prehistory ; the period for which written records exist, from the reign of Menes (about 3300 B.C.) to the death of Cleopatra, the last of the Pharaohs, in B.C. 30, compasses three thousand three hundred years—twice as long as the era from the departure of the Romans from Britain to the present day. In Lower Egypt are still to be seen monuments upon which the Greek historian Herodotus gazed in wonder two thousand four hundred years ago, and which for him were ancient beyond computation. And throughout the thirty-three Dynasties, which ended a few years before the birth of Christ, the same stylized traditions persisted, in art and architecture, in literature and religion, in government and law. In no other part of the world can we trace the same continuity of native genius and civilization.

To stand, as Petrie stood three-quarters of a century ago, in the shadow of the Great Pyramid of Khufu is an unforgettable experience. The short journey from Cairo is made by electric tramcar (a strange anachronism in that immemorial setting) across the flat and narrow fertile belt of land that fringes the ancient Nile. On a rocky plateau, at the very edge of the desert, stands this enormous structure which towers almost its original 487 feet into the air, and still covers an area of twleve and a half acres. It has been estimated that the Cathedrals of Florence, Milan, St. Peter's, Westminster Abbey and St. Paul's could be accommodated within it. Two million three hundred thousand blocks of stone, averaging two and a half tons each, were hewn from the limestone hills nine miles away, rolled down to the river, ferried across in barges and transported uphill to the site. Three hundred thousand men, the historians tell us, laboured for twenty years to build this mighty monument, still one of the wonders of the world. If the Pharaoh's workmen had started building in 3300 B.C., at the rate of one block a day, and had continued daily from that date, the edifice would be still far from completion today ; it would not be finished until the year 3000 A.D. From the summit can be seen the other Pyramids of Gizeh and the Sphinx, and in the distance the Pyramids of Abusir, Sakkara and Dakshur, silent witnesses to an age of splendour, prosperity and power.

Petrie spent forty-six years in Egypt, excavating, measuring, reading and translating the hieroglyphic inscriptions and reconstructing from his material the daily life of this strangely-gifted people. He discovered buried cities and monuments ; penetrated tombs till then unknown, and read their secrets. Ceramics, statuettes and models ; pyramids, temples and tombs—nothing was too large or too small for his indefatigable scholarly zeal. Through him the Pharaohs, their governors and ministers, live again ; the activities of scribes, craftsmen, artists and lawyers are laid bare ; and proud twentieth-century man is brought up once more against the sobering and humbling realization that there is no new thing under the sun.

The modern lawyer, with the recent case in mind, will be interested to learn that, as far back as 2000 B.C., " charitable " foundations were common—foundations in the nature of chantries for the reciting of prayers, in perpetuity, for the souls of the dead, and also settlements *inter vivos* of ecclesiastical property. Legal documents recording sales and gifts of land and chattels, executed and sealed before witnesses, have been discovered, with their " counterparts " ; marriage-settlements, safeguarding the security of wife and child, commercial contracts and assignments, can still be read ; fragments of the law of succession show that it was highly developed. Law reports, both civil and criminal, have been found, indicating that the same importance was attached to evidence on oath as in our courts. Judgments were recorded, and a strangely modern touch is provided by one document which shows that it was regarded as part of the judge's duty to persuade the parties to a settlement of the action if he could. There is the record of a prosecution, under the Twentieth Dynasty (about 1300 B.C.), of the criminals who broke into and plundered the royal tombs ; and another of a process against court officials accused of a treasonable conspiracy in the reign of Rameses III, a hundred years later. There were High Courts of Justice at Thebes and Heliopolis, and Inferior Courts in other cities. The Head of the Judiciary, as now, was the Chancellor, who kept the Pharaoh's Seal as a symbol of office. A passage from the ceremony of his investiture anticipates, by fifteen hundred years, Justinian's precept *suum cuique tribuere*—" If a suppliant approaches thee, thou shalt see that all is done according to law, giving to every man his right ". Nothing could be closer to the maxim of the old English jurists, *ubi jus, ibi remedium*, which forms the foundation of our legal system.

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Burial—*Ground provided by council—Fees to incumbent.*

In 1889 the burial board bought land adjoining the churchyard for use as a burial ground, and in the conveyance is the following covenant: "... and subject to and on the express condition that the vicar of —— aforesaid shall with the consent of the bishop aforesaid appropriate the fees for securing private graves and erecting headstones arising from burials in the above-mentioned burial ground towards the expenses connected with such ground, etc. ..."

The burial board sold burial plots and took the fees for the erection of headstones and the vicar took all burial fees. The burial board has recently been taken over by the urban council. Has the vicar any right to these fees, in view of s. 3 of the Burial Act, 1900? BURLUC.

Answer.

No. The provision in the conveyance, cited in the query, was evidently drawn with s. 5 of the Burial Laws Amendment Act, 1880, in mind, but this is rendered inoperative by s. 3 of the Act of 1900.

2.—Food and Drugs Act, 1938—*Preserved food—Packing.*

Section 14 (1) of the Food and Drugs Act, 1938, provides that no premises shall be used *inter alia* for the preparation or manufacture of sausages or potted, pressed, pickled, or preserved food intended for sale unless they are registered under the section. At premises in this district preserved food made from pigskin has for some time been manufactured and, when complete, made up into small cartons ready for sale. These premises are registrable under s. 14. The firm have now obtained other premises which they are using solely for the packaging of the manufactured product, the whole manufacturing process being first carried out at the first-mentioned premises. Your advice is sought as to whether the word "preparation" in the section covers the isolated process of packaging. The definition of "prepare" in s. 100 does not offer any assistance. P.F.A.D.

Answer.

Yes, in our opinion. Packaging is part of the "preparation" of a potted food for transmission to the consumer.

3.—Evidence—*Hearsay—Cross-examination.*

In *Kenny's Outlines of Criminal Law* (16th Edn., 1952) it is in effect stated, as in previous editions, at p. 387 (para. 536) that hearsay evidence may be elicited in cross-examination which could not be adduced in direct examination. The following example is there given:

"Thus if the examiner-in-chief asks 'Why did you go to that house' and receives for answer 'Because of a remark my brother made to me' *he* cannot go on to ask what this remark was (for that would be to adduce hearsay evidence); but the opposite party when he comes to cross-examine, will be fully entitled to ask."

This statement and example are not supported in *Kenny* by reference to any authority and I would like your opinion as to their correctness. There are well known exceptions to the rule excluding hearsay set forth in text books but the statement in *Kenny* does not appear to come under the heading of any one of them. Nor does it appear to be a recognized principle that the rule excluding hearsay applies to examination-in-chief only. On the contrary, it is stated in *Cockle* (5th edn.) p. 288-9 quoting from *Wills' Law of Evidence*: "Moreover the rule against hearsay applies to the proof of the relevant facts in course of cross-examination just as much as to their proof by examination-in-chief. That is to say a party is not entitled to prove his case merely by eliciting from his opponent's witness in cross-examination not his own knowledge on the subject but what he has heard others say about it, but has not verified for himself." If you consider that the statement and example in *Kenny* are correct, is there any authority, otherwise, in support and can they be reconciled with the quotation from *Cockle*? TEROG.

Answer.

In considering such a question it has to be remembered that in practice considerable latitude is often allowed to the defence in criminal cases, and it is difficult to justify strictly, or to support by decisions, some relaxation of the rules about hearsay.

Accepting that the hearsay rule applies to cross-examination, it may be that what is apparently hearsay evidence and inadmissible in proof of facts alleged by the prosecution may become admissible evidence on an issue raised by the defence. Thus, the defence may be mistaken identity, the defendant alleging that he has been mistaken for AB, who commited the crime. A witness having said he arrested the defendant because of what CD told him, might be asked in cross-examination what CD said, and might even be asked the leading question "Did CD tell you that it was AB." The issue now being one of identity it is relevant to ask if CD made a statement which may help the defence to prove the mistake. This kind of cross-examination is in practice frequently admitted without objection.

4.—Husband and Wife—*Maintenance order—Wife goes abroad—Enforcement of order.*

I shall be obliged for your information on the following points:

A married woman obtained a maintenance order against her husband which was effective for some two or three years. She was an Egyptian subject prior to her marriage and there is one child under sixteen, also included in the maintenance order. The woman has now returned to Egypt with the child for a considerable stay and hopes to be able to reside there permanently. Before going she had to obtain her husband's consent to taking the child for the Egyptian Embassy and the husband therefore has full knowledge, and has given his consent to the trip to Egypt. He has always paid the maintenance regularly up to December 12, last, on which date the wife embarked for Egypt. The maintenance order is made payable through the collecting officer. Will you please let me know:

1. Whether you consider that, as the collecting officer, I can take action for recovery of arrears without the wife's specific instruction?
2. If she writes to me and requests me to issue a summons shall I be in order in doing so?
3. Even if a summons is issued with the wife not being present in court do you think the justices could take any action?
4. If the wife resides permanently in Egypt there is no reason as far as I can see why the maintenance moneys cannot be remitted to her there, subject to the consent of the Bank of England being obtained.

Perhaps you will let me have your observations. SUSTEN.

Answer.

The opinion is sometimes expressed that if a wife goes abroad and places herself beyond the jurisdiction of the English courts, so that the husband is unable to have process served upon her for variation or discharge, she is not entitled to enforce her order through a magistrates' court in this country. In the absence of a High Court decision we do not take this view, and think that an English court has a discretion to enforce the order. Our answers to the specific questions are therefore:

(1) No, only upon her instructions in accordance with s. 52 (3) of the Magistrates' Courts Act, 1952.

(2) Yes, application can be made by the clerk as collecting officer for the issue of process, and such application should be made unless the clerk considers it unreasonable, s. 52 (3), *supra*.

(3) This is a matter within their discretion. If the husband does not give any good reasons for not having paid, *e.g.*, that he has evidence that she is living in adultery, there seems no reason for not enforcing the order.

(4) We agree.

5.—Justices' Clerks—*Retirement with justices—Effect of announcement by Lord Chief Justice.*

I have carefully read the statement of the Lord Chief Justice with regard to the clerk to the justices retiring with the magistrates set out in your issue of December 12.

There are two points upon which I should appreciate your guidance:

(*a*) It has always been my practice as clerk to the justices on arrival at the court to go into the magistrates' retiring room ten minutes before the opening of the court. During these ten minutes I inform the magistrates whether any cases have been added to the list and the chairman asks me about such matters as the penalties and special points of law procedure applicable to any unusual case in the list and there is an opportunity of discussing general matters affecting the court and its procedure, *e.g.*, I would use this opportunity to show them the Lord Chief Justices' statement and discuss its implications. Naturally, I would not discuss any facts relating to particular cases which might be known to me. Can there be any objection to this practice of going to the magistrates' retiring room ten minutes before the hearing?

(*b*) My second point relates to the justices' clerk's notes of evidence. It appears that the Lord Chief Justice anticipates that normally, if the magistrates require to refer to the notes, they will take these with them or send for them, but that, for this purpose, the clerk would not retire and the chairman himself would read any parts of the notes which he or the other magistrates wish to refer to. It seems that it is intended they should only ask the clerk to go to the retiring room where there is something in the note which needs elucidation or they think

that something had been omitted or wrongly taken down. Can you tell me whether you consider this is what is intended. If so, it means taking the evidence at a considerably slower speed as a clerk to the justices can write very much quicker if his notes are only intended to be legible to himself than if they have to be easily legible to the magistrates.

Alternatively, you may feel that whenever the note is referred to the magistrates should come back into court and ask the clerk to read the note through. I believe it was in the case of *R.* v. *East Kerrier Justices* that the court criticized the practice of a shorthand writer taking his note to the retiring room but this may or may not apply where it is the clerk himself who takes his note although there seems to be little difference in principle. SEULT.

Answer.

(*a*) We see nothing improper in the practice as stated.

(*b*) In *R.* v. *Welshpool Justices* [1953] 2 All E.R. 807, 117 J.P. 511 the Lord Chief Justice indicated that if there were any question of an omission from or error in the shorthand writers' notes it would be better for the justices to deal with this in open court. We think therefore that where such a question arises as to the clerk's notes it should be dealt with in the presence of the parties. If, however, it is only a question of the clerk's reading handwriting the justices may send for the clerk and ask him to read notes or parts of them, and then, if they have no need of advice, asking the clerk to return into court.

6.—Licensing—*Enlargement of "permitted hours" by order of licensing justices—How early closing licence affected.*

The holder of a justices seven day early closing licence (hours 11 *a.m.* to 2.30 *p.m.* and 5.30 *p.m.* to 9 *p.m.*) in my area wishes to apply to my justices for variation of the permitted hours in respect of his premises under s. 101 of the Licensing Act, 1953. The licencee in question wishes his premises to remain open until 10 *p.m.* during the months of June, July, August and September in each year.

As will be seen from the above, the permitted hours in respect of these particular licensed premises are seven hours daily, and in view of the letter of February 16, 1927, from the Home Office to a justices' clerk which is set out on p. 965 of the 1954 edition of *Paterson*, it would appear that the variation of permitted hours is only allowed in those premises where such direction includes the substitution of "8½" for "8" as the total period of the permitted hours.

I should be glad therefore of your opinion as to whether my justices would be entitled to entertain such an application or grant the variation sought. N.A.B.C.

Answer.

The permitted hours in licensed premises on weekdays shall be eight, falling within prescribed times as fixed by the licensing justices and ending not later than 10 *p.m.* The licensing justices may for good reason enlarge the permitted hours in their district to eight and a half, still falling within prescribed times and ending not later than 10.30 *p.m.* (Licensing Act, 1953, s. 101). The point to observe is that the order affects "permitted hours" in the licensing distict and is not indentified with any named licensed premises: all licensed premises (and, indeed, registered clubs—*see* s. 103 (2)) in the licensing district may avail themselves of the enlarged permitted hours.

The permitted hours in respect of an early closing licence by a condition inserted in the licence under s. 110 of the Act are one hour earlier in the evening than the ordinary permitted hours for the licensed premises in the district. Thus, if no order has been made under the proviso to s. 101 (2) of the Act, permitted hours in respect of premises conducting business under an early closing licence end at 9 *p.m.*: if such an order has been made, they end at 9.30 *p.m.*

Licensing justices would not be in order in considering an application relating to the whole of the licensing district. But, in any event, there is no power to make an order which would have the effect that the holder of an early closing licence could avail himself of permitted hours ending later than 9.30 *p.m.*

7.—Licensing—*General order of exemption—Whether may be granted for "market days" which sometimes occur on different days of the week.*

I should be grateful of your advice as to a difficulty which sometimes arises under a general order of exemption given by the justices of one of the courts of which I am now clerk, but before I was so appointed.

From the order (a copy of which is enclosed herewith) you will see that a general exemption was given on "Fridays (Market Days)" between certain hours. Produce markets are held weekly in the town on Fridays, except in the week before Easter when the market is held on a Thursday, and recently when Christmas Day fell on a Friday, the market was held on the previous Thursday.

On these occasions applications have been made by the licensee for individual special orders of exemption to open on the Thursday during the same hours as stated in the general order. I have been asked to advise the licensing justices as to whether it is strictly necessary for special orders of exemption to be applied for in these circumstances and if so whether the existing general order of exemption could be re-drafted to cover the case of market days held on the Thursday before Good Friday and other occasions when the market is on a Thursday. The position is further complicated by the fact that on the first Thursday in each month a cattle sale is held in the auction yards and certain licensed premises in the vicinity of the auction yards are annually granted general orders of exemption on those days. Any general order of exemption, if given to all licensees and which included Thursdays, would therefore be liable to misinterpretation.

A further point of difficulty has also arisen in that no licensee applied at the regular sitting of the petty sessions next before Christmas for a special order of exemption for the recent market held on the Thursday before Christmas, and it was necessary to convene a special court to deal with the matter. This practice was objected to by the inspector of police, but in view of ss. 107 and 108 of the Licensing Act, 1953, the justices were advised that they had power to deal with the matter.

I should be grateful of your advice upon the following questions:

(1) Whether it is necessary for special orders of exemption to be applied for when the weekly market is not held on a Friday.

(2) Whether the existing general order of exemption can be suitably re-drafted and granted at the next general annual licensing meeting, in order to avoid the necessity of licensees applying for special orders of exemption.

(3) Whether it is proper for two or more justices sitting at a special court, and not at a regular sessions of the court, to grant special orders of exemption and also occasional licences. ORDEX.

Answer.

(1) As the general order of exemption is worded at present we think that permitted hours may only be extended on days other than Fridays by special orders of exemption.

(2) Section 106 (3) of the Licensing Act, 1953, is wide enough, in our opinion, to enable a general order of exemption to be granted in such a form as—

"On Fridays, or on such other weekday as may by lawful authority be appointed as (an alternative) market day in any particular week."

The power to vary the existing general order of exemption does not lie with the licensing justices at the general annual licensing meeting, but with a magistrates' court (*see* Licensing Act, 1953, s. 108).

(3) Yes. (Licensing Act, 1953, s. 108).

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

COUNTY BOROUGH OF SOUTHEND-ON-SEA and PETTY SESSIONAL DIVISION OF ROCHFORD

Appointment of Chief Assistant to the Clerk to the Justices

IN consequence of the promotion of the present Chief Assistant to the position of Deputy Clerk, applications are invited for the appointment of Chief Assistant to the Clerk to the Justices. The commencing salary will be in the range—£785 p.a. to £840 p.a. according to qualifications and experience—rising to a maximum of £960 p.a.; the successful applicant will be required to pass a medical examination, and the position will be subject to the conditions of service laid down by the National Joint Council.

Applicants, preferably under 40 years of age, should have had considerable experience of the work in a Justices' Clerk's Office, and in taking courts without supervision.

Applications, stating present salary and full particulars, with the names of two referees, should reach the undersigned not later than May 24, 1954.

H. HOMFRAY COOPER,
Clerk to the Justices.

1, Nelson Street,
Southend-on-Sea.
May 8, 1954.

PENYBONT RURAL DISTRICT COUNCIL

Appointment of Clerk of the Council

APPLICATIONS are invited for the position of legal Clerk of the above Council from persons with extensive experience in local government.

The salary and conditions of service of appointment will be in accordance with the recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks of Authorities within the 30,000-45,000 population group, £1,350 rising to £1,550 per annum.

The person appointed will be required to carry out all statutory and other duties devolving upon him or assigned to him by the Council, and to act as Registrar of Local Land Charges and Returning Officer at local elections. All fees, emoluments and payments of any kind (with the exception of the personal fees referred to in the recommendations of the Joint Negotiating Committee) shall be paid to the credit of the Council's account.

The appointment will be subject to the provisions of the Local Government Superannuation Acts, the passing of a medical examination, and to three months' notice on either side.

If necessary, the Council will provide housing accommodation for the person appointed for which rental will be payable to the Council.

Applicants must disclose in writing whether they are related to any Member or Senior Officer of the Council.

Applications, stating age, legal and academic qualifications, experience, present and previous appointments and giving the names of three persons to whom reference may be made, should reach the undersigned not later than Saturday, May 29, 1954.

BRINLEY J. EVANS,
Assistant Clerk.

Penybont Offices,
Coity Road, Bridgend.

COUNTY OF ESSEX

Appointment of Assistant Prosecuting Solicitor

APPLICATIONS are invited from solicitors with experience of advocacy. The person appointed will be required to conduct prosecutions in the Magistrates' Courts of the County on behalf of the Police and the County Council. He must also have ability to draft briefs and instruct counsel at Quarter Sessions and Assizes. His salary will be fixed in accordance with his qualifications and experience but will not exceed £960 a year. Post superannuable. Medical examination necessary. Canvassing forbidden. Applications, stating age, education, qualifications and experience, with typewritten copies of not more than three recent testimonials (which will not be returned), should be sent as soon as possible to the County Clerk, County Hall, Chelmsford.

DERBYSHIRE MAGISTRATES' COURTS COMMITTEE

Appointment of Justices' Clerk

APPLICATIONS are invited from persons qualified in accordance with the Justices of the Peace Act, 1949, for the appointment of whole-time Clerk to the Justices for the Alfreton, Belper and Matlock Petty Sessional Divisions, with a total estimated population of 110,214.

The salary will be £1,650 rising by annual increments of £50 to £1,900 per annum.

Superannuable post. Medical examination required.

Forms of application from the undersigned, returnable by May 24, 1954.

D. G. GILMAN,
Clerk of the Committee.

County Offices,
Derby.

COUNTY OF LINCOLN— PARTS OF KESTEVEN

Appointment of Assistant Solicitor

APPLICATIONS are invited from Solicitors for the above appointment in the Department of the Clerk of the Peace and of the County Council. Local government experience is desirable.

Salary will be on A.P.T. Grades IX/X of the National scales for Local Authorities' services, *i.e.* £840 × £40 × £50—£1,050 per annum, commencing according to experience. Car allowance will also be paid.

The appointment will be subject to the usual conditions of service.

Further particulars and form of application may be obtained from the undersigned, to whom applications should be sent not later than June 1, 1954.

J. E. BLOW,
Clerk of the County Council.

County Offices,
Sleaford,
Lincs.

BOROUGH OF WALLSEND

Appointment of Town Clerk

APPLICATIONS are invited from Solicitors having local government experience for the appointment of Town Clerk from October 1, 1954.

The salary will be within the scale of £1,500 p.a. rising by annual increments of £50 to £1,750 p.a. The Recommendations regarding Salary and Conditions of Service of the Joint Negotiating Committee for Town Clerks and District Council Clerks will apply to the appointment. The Town Clerk is Registration Officer and Acting Returning Officer for the Parliamentary Borough of Wallsend. The appointment is subject to the Local Government Superannuation Acts, to medical examination and to termination by three months' notice.

Applications, endorsed "Town Clerk," giving particulars of age, qualifications and experience, previous and present appointments, with the names and addresses of three persons to whom reference can be made, must reach the undersigned not later than June 5, 1954.

CHAS. E. BRADBURY,
Town Clerk.

Town Hall,
Wallsend-on-Tyne.
May 12, 1954.

BOROUGH OF HARTLEPOOL

Town Clerk's Office

Appointment of Legal Clerk (Unadmitted)

APPLICATIONS are invited for the above appointment at a salary in accordance with Grade A.P.T. II of the National Scales (*i.e.* £520 rising by annual increments of £15 to a maximum of £565).

Local government experience is not essential but applicants must have had considerable experience in conveyancing and must be capable of acting with nominal supervision.

Applications, stating age, education, particulars of experience and the names of at least two persons to whom reference may be made, must reach the undersigned not later than Saturday, May 22, 1954.

L. O. WILLIAMS,
Town Clerk.

Borough Buildings,
Hartlepool.

CITY OF BIRMINGHAM

Appointment of Male Senior Probation Officer

APPLICATIONS are invited for the appointment of a Male Senior Probation Officer. Applicants must be serving Probation Officers with considerable experience. Salary and allowance (£75) according to the Probation Rules, 1949 to 1954. The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, and the names of two referees, must reach the undersigned not later than May 22 next.

T. M. ELIAS,
Secretary to the City of Birmingham Probation Committee.

Victoria Law Courts,
Birmingham 4.

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